

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2015

CORAM :

THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

C.M.A. No. 2127 of 2003

and

C.M.P. No.12957 of 2003

The Managing Director
Tamilnadu State Transport Corporation Ltd.,
Railway Station Road,
Kumbakonam Town & Munsif. Appellant/Respondent

vs.

Ramani Respondent/Claimant

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Decree and Judgment made in M.A.C.T.O.P No.263 of 2002 dated 28.03.2003 on the file of the Motor Accidents Claims Tribunal (Additional District Judge), Nagapattinam.

For appellant : Mr.M. Krishnamoorthy
For respondent : MS.S.T.P. Kuzilmozhi

JUDGMENT

The Tamilnadu State Transport Corporation, who is the respondent before the Tribunal is the appellant herein.

2. The present appeal is filed against the award of compensation of Rs.1,80,000/- to the injured in the accident and the correctness of the impugned award is questioned only on the issue of quantum fixed by the Tribunal. The Tribunal, having regard to the nature of injuries sustained by the injured, his age, the nature of avocation, his monthly income, the surgery underwent by him for removing the injured right thumb, the period of hospitalisation and the pain and suffering undergone by him and by his family members in attending to his day to day needs during his hospitalisation and the other expenses incurred by them for transport, medicines, extra

nourishment etc., the loss of earning during his hospitalisation and during his post operation period, has awarded the compensation of Rs.1,80,000/- under the following heads :

Sl. No.	Heads	Amount granted
1.	Disability @ 45%	Rs. 1,62,000.00
2.	Pain and Suffering	Rs. 15,000.00
3.	Attender charges	Rs. 3,000.00
	Total	Rs. 1,80,000.00

The Standing Counsel for the Transport Corporation representing the appeal questioned the degree of disability of 45%, that has been accepted by the Tribunal and also the compensation awarded for the same at Rs.1,62,000/- as contrary to the medical norms and the guidelines, and as highly excessive. It is also contended before this Court that as per the medical norms, the degree of disability for loss of thumb is only 20% and not 45% and the Tribunal has wrongly adopted 45% for the same, which has ended in grant of disproportionate award as compensation to the injured.

3. Whereas, the learned counsel for the respondent/ claimant would defend the impugned award by stating that the quantum of compensation is reasonable. The attention of this Court is drawn to the omission on the part of the Tribunal to award any compensation for medical expenses, extra nourishment, travelling expenses, loss of earning during hospitalisation period and also the lesser amount awarded as compensation for pain and suffering and attender charges. It is argued by learned counsel for the respondent that any reasonable sum awarded towards the factors stated above, would justify the award of Rs.1,80,000/-, to be only reasonable.

4. This Court, finds the contention raised on the side of the respondent claimant deserves merit and acceptance. Though the sum of Rs.1,80,000/- awarded towards disability sustained by the injured is highly excessive, if it is apportioned for other factors as stated above, it is nothing but just and reasonable and warrants no interference.

5. In the result, the Civil Miscellaneous Appeal stands dismissed. Time for deposit of entire award amount, if not so far deposited, is four weeks from the date of receipt of a copy of this judgment, and on such deposit, the claimant/injured is permitted to

withdraw the entire amount by filing Cheque Petition before the Tribunal. Consequently, the connected M.P is closed. No costs.

-s/d-
Assistant Registrar (CSIII)
dt:07/10/2015

True Copy

Sub-Assistant Registrar

avr
To

1.The Additional District Judge
Motor Accident Claimst Tribunal
Additional District Judge
Nagapattinam.

2.The Section Officer,
VR.Section, High Court, Madras

+1 cc to Mr.M.Krishnamoorthy Advocte sr.40363
+1 cc to Mr.Veera Kathiraran,Advocate sr.40657

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