

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.2406 of 2004

The Managing Director
Tamil Nadu State Transport Corporation
Villupuram Division-I Ltd.,
Villupuram - 605 602. Appellant/Respondent.

Vs.

Dakshinamoorthy Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 07.01.2003 made in M.C.O.P.No.175 of 2000 on the file of Motor Accident Claims Tribunal, (Principal Subordinate Court), Cuddalore.

For Appellant : Mr.S.V.Vasanthakumar
For Respondent : No Appearance

JUDGMENT

This appeal has been preferred by the Transport Corporation against the award of Rs.1,90,900/-, for the injury sustained by the claimant, in the accident, which occurred on 25.10.1999, while the claimant was travelling in one Transport Corporation bus, which got collided with another Transport Corporation bus.

2. Since notice has been sent to the respondent was returned, as per the order of this Court, publication was effected and respondent name is printed in the cause list and no one entered appearance. In view of that this Court proceeds with the matter to decide on merits.

3. The manner of accident is not in question. Since both the vehicles are Transport Corporation buses, the question of liability is not in question.

4. The claimant sustained fracture in Tibia and fibula on his left leg and there is cut injuries above the eye. As per the medical report, P.W.3 Doctor determined the disability at 30%. The said determination is based on medical evidence as well as documents.

Therefore, the same cannot be found fault with. Since it is evident from the claim petition itself, the respondent/claimant is working as Office Assistant in Tamil Nadu Agro Industries Corporation Ltd., Pondicherry Branch on a monthly salary of Rs.4,300/-, there is no question of loss of income and therefore the multiplier method adopted by the Tribunal to determined the loss of income is set aside.

5. However, the claimant is entitled to compensation for the disability 30% sustained by him. Taking into consideration the two fractures in the left leg and consequent effect in standing for a long time, sitting and to run and to claim upstairs, a sum of Rs.2,000/- is given for one percentage of disability. Thus, a sum of Rs.60,000/- is awarded towards disability. A sum of Rs.21,460/- was awarded by the Tribunal towards loss of income. Since the claimant was employed in a Government organisation, he would not have suffered any loss of income. Thus the loss of income awarded by the Tribunal is deleted. A sum of Rs.15,000/- awarded towards medical expenses is confirmed. Since no amount was awarded towards transportation and extra-nourishment, a sum of Rs.30,000/- is awarded towards extra-nourishment and Rs.10,000/- is awarded towards transportation. The award of Rs.1,90,000/- is reduced to Rs1,00,000/- along with interest at the rate of 9% p.a., with costs.

6. The appellant Transport Corporation is directed to deposit a sum of Rs.1,00,000/- along with interest at 9% p.a with costs, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondent/claimant is permitted to withdraw the entire amount within one week.

7. In view of the above, this civil miscellaneous appeal is partly allowed. No costs.

rrg

-s/d-

Deputy Registrar(J)

Dt:20/3/2015

True Copy

Sub-Assistant Registrar

To

1. The Motor Accident Claims Tribunal,
(Principal Sub Court),Cuddalore.

2. The Section Officer, V.R.Section,
High Court, Madras.

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