

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2015

CORAM:

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

C.M.A.No.784 of 2006 and  
Cross Objection No. 13 of 2008

C.M.A.No.784 of 2006

Tamil Nadu State Transport  
Corporation Ltd.,  
Coimbatore Division - II,  
Erode.

Rep. by its Managing Director. .... Appellant/Respondent 2

Vs.

1. P.Chinnasamy ....Respondent 1/Petitioner
2. Swaminathan .... Respondents 2/Respondent No.1  
(R2 is given up)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decretal order dated 01.07.2005 made in M.C.O.P.No.108 of 2004 on the file of the Motor Accident Claims Tribunal [Additional District Judge, Fast Track Court No.I], Erode.

Cross Objection No. 13 of 2008

P.Chinnasamy .... Cross Objector/Respondent 1

Vs.

1. Tamil Nadu State Transport  
Corporation Ltd.,  
Coimbatore Division - II,  
Erode.  
Rep. by its Managing Director. ....Respondent 1/Appellant
2. Swaminathan .... Respondent2/  
Respondent No2

Prayer : The Cross Objection filed under Order 41 Rule 22 of C.P.C. praying for enhancement of the compensation awarded in the Judgment and Decree dated 01.07.2005 made in M.C.O.P.No.108 of 2004 on the file of the Motor Accident Claims Tribunal, Additional District Court, Fast Track Court No.I, Erode.

For Appellant in C.M.A.No.784 of 2006  
and R-1 in Cross  
Objection No.13 of 2008 : Mr.A.Manjunathan

For R-1 in C.M.A.No.784 of 2006  
and Cross Objector in Cross objection  
No.13 of 2008 : Mr.N.Manokaran

COMMON JUDGMENT

Civil Miscellaneous Appeal and Cross Objection are filed by the State Transport Corporation and the claimant, against the award of compensation and for enhancement of compensation respectively.

2. The learned counsel appearing for the appellant in C.M.A.No.784 of 2006 filed by the State Transport Corporation would restrict her argument only on the quantum.

3. The facts which remains undisputed are that the injured was, on the date of the accident on 14.12.2001, aged about 52 years and was an agriculturalist and was also a Partner in the Finance Firm and the injured, in the accident, sustained fractures in the hip, damage in urethral and bladder, right thigh, right hand, fracture in pelvis, right eyebrow and forearm.

4. The medical evidence would show that the injuries sustained by him could not be fully cured and he is not able to stand walk, work, and attend his natural calls and he is not able to do his day-to-day normal activities without any support and assistance because of serious damage caused to his urethral and bladder, right thigh and fracture in pelvis. The claimant become totally incapacitated to do any work. The Doctor has rightly assessed the disability at 85%, which is also accepted by the Tribunal.

5. However, the Tribunal has not accepted the monthly earning of the injured as Rs.10,000/- p.m. and the same is fixed at Rs.18,000/- per year and on what basis the same is fixed so, is not explained in the impugned award. The Tribunal, on the basis of the age of the deceased as 55 years and his earnings of Rs.18,000/- per year and permanent disability at 85%, was inclined to award the compensation under the following heads as follows:

|                                      |     |                      |
|--------------------------------------|-----|----------------------|
| Loss of future earnings              |     | Rs.1,67,800/-        |
| Pain and sufferings                  |     | Rs. 25,000/-         |
| Transportation                       | Rs. | 5,000/-              |
| Extra nourishment                    |     | Rs. 5,000/-          |
| Loss of earning                      |     | Rs. 10,000/-         |
| Loss of comfort and earning capacity |     | Rs. 50,000/-         |
| Medical Bills                        |     | Rs.4,00,000/-        |
| Total                                |     | <u>Rs.6,62,800/-</u> |

6. As rightly argued by the learned counsel appearing for the cross objector/claimant, the amount fixed as monthly income and the amount determined as loss of future earnings and the quantum of compensation awarded under other heads, considering the nature of the injuries, fractures and his present physical immovable condition, are absolutely too low and inadequate.

7. This Court, for the purpose of determining the loss of future earning, is inclined to fix his loss of income at Rs.2,000/- p.m. and Rs.24,000/- per year. This Court, on the basis of such finding and other findings in the impugned award which are based on proper materials is of the view that the claimant is entitled to reasonable enhancement of compensation and the compensation is enhanced as follows:

|                                                               |   |                      |
|---------------------------------------------------------------|---|----------------------|
| Medical bills                                                 | - | Rs.4,00,000/-        |
| Loss of future earnings                                       | - | Rs.2,24,400/-        |
| Permanent disability                                          | - | Rs. 85,000/-         |
| Pain and sufferings                                           | - | Rs.1,00,000/-        |
| Transport to hospital, extra nourishment and attender charges | - | Rs. 25,000/-         |
| Loss of amenities                                             | - | Rs.1,00,000/-        |
| Loss of partial earning                                       | - | Rs. 20,000/-         |
| Total                                                         | - | <u>Rs.9,54,400/-</u> |

Rounded off

Rs.9,55,000/-

8. In the result, the compensation of Rs.6,62,800/- is enhanced to Rs.9,55,000/- payable with interest at 7.5% p.a. from the date of claim petition till the date of deposit with proportionate costs. Time for deposit of balance award amount is six weeks from the date of receipt of a copy of this Judgment. Time for payment of additional Court Fee, if any, is two weeks from the date of receipt of a copy of this Judgment. On deposit of entire compensation with interest and costs by the State Transport Corporation, the claimant is permitted to withdraw the entire amount by filing a separate cheque petition before the Tribunal. The Civil Miscellaneous Appeal and Cross Objection are accordingly disposed of No costs.

Sd/-  
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal  
[Additional District Judge, Fast Track Court No.I],  
Erode.

+1cc to Mr.N.Anand, Advocate sr.47982

+1cc to Mr.N.Manoharan, Advocate sr.48297

C.M.A.No.784 of 2006 and  
Cross Objection No. 13 of 2008

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