



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.DEVADASS

C.M.A. (MD) No.799 of 2015

and

M.P. (MD) No..2 of 2015

Tamil Nadu State Transport
Corporation
through its Managing Director
Madurai

... Appellant / Respondent

-vs-

Patchaiappan

... Respondent / Petitioner

PRAYER: Appeal is filed under Section 30 of the Workmen Compensation Act, to set aside the order, dated 17.11.2014, passed in W.C.No.59 of 2008, on the file of Commissioner of Workman Compensation Tribunal, Madurai.

For Appellant : Mr.A.Jeyaram

J U D G M E N T

As the matter lies in a narrow compass, it need not await the appearance of the respondent and we shall dispose of the matter today at the admission stage itself.

2. The Commissioner under Workmen's Compensation Act / Deputy Commissioner of Labour, Madurai, appreciating the evidence oral and documentary, came to the conclusion that there is loss of earning capacity and applying the principles ordered the appellant / State Transport Corporation to pay Rs.1,07,386/- as compensation to the claimant.

3. The learned counsel for the appellant would submit that even after the accident, the respondent continues as Conductor, in such circumstances, there is no loss of earning capacity to him and this has been overlooked by the Commissioner.

4. This is what the version of the Management witness before the said Commissioner. However, admissions made by the Management witness, during cross-examination, went as against the case pleaded by the Management. Even the Commissioner did not say that the respondent has become totally unfit or there is total disability. Taking into account the evidence of Doctor, he has determined loss of his earning capacity only at 28%. There are admissions to that effect from the evidence of Management witness and as regards the plea set up by the Management there is no acceptable evidence.

5. In the facts and circumstances, we do not find any perversity in the findings recorded by the Commissioner.



6. In the result, this civil miscellaneous appeals fails and it is dismissed. As the entire compensation amount has already been deposited, the respondent / claimant is permitted to withdraw the amount by filing proper application before the Commissioner under Workmen Compensation Act, Madurai, less amount if any already withdrawn. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To
The Commissioner of
Workmen Compensation /
Deputy Commissioner of Labour,
Madurai.

+1cc to Mr.A.Jeyaram, Advocate SR.No.51815

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