BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.12.2014
CORAM
THE HONOURABLE MRS.JUSTICE S.VIMALA

C.M.A.(MD) No.1172 of 2014
and
M.P.(MD) No.2 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation,
Karaikudi.
: Appellant/Respondent

Vs

Sheik Thavuth : Respondent/Petitioner

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 26.12.2013 made in M.C.O.P.No.163 of 2010 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Pudukkottai.

For Appellant : Mr.P.Prabhakaran

JUDGMENT

The Claims Tribunal has awarded a sum of Rs.85,199/- to the claimant Sheik Thavuth as against the claim made for a sum of Rs.15,00,000/-. Challenging the quantum of compensation, the Transport Corporation has filed this Civil Miscellaneous Appeal.

2.The claimant Sheik Thavuth, aged 60 years, employed in a grocery shop, earning a sum of Rs.10,000/- per month, suffered injuries in an accident that took place on 25.04.2010. He suffered fractures on the rib bones and the rib bones have pierced into the lungs. The Doctor has certified the disability at 20% and on that basis, quantification has been done.

3.The compensation awarded for loss of earning capacity is assailed by the learned counsel for the appellant on the ground that when the claimant has suffered only 20% disability, and that it may not have any impact upon the earning capacity. In order to appreciate this contention, it is necessary to look into the details of disability and the consequences of the disability suffered, upon the earning capacity.

4.The Accident Register copy issued to the claimant would go to show that the nature of injury sustained by him is grievous injury. The disability suffered by the claimant has been spoken to by P.W.4, Dr.RaviKumar. There had been fractures on the rib bones in the left part of the chest and the bones have been found hanging. There had been bleeding inside the chest and it has been removed by surgery. The services of Cardiologist has been employed for the purpose of treating him. These factors are supported by the case history produced before the Claims Tribunal.

5.The impact of this disablement has to be considered along with the age of the claimant and the nature of job he was doing. Admittedly, the claimant was aged 60 years. In his old age, this kind of disability caused in the chest and the lungs will certainly cause breathing problem and also would affect the normal day-to-day activities. Therefore, the Tribunal should have considered the loss of enjoyment of amenities but that has not been considered.

6.Percentage of disability has been assessed at 20% and a sum of Rs.40,000/- alone has been awarded. A sum of Rs.10,000/- has been awarded towards temporary loss of earning. The compensation towards pain and suffering has been awarded only Rs.25,000/- which should have been more having regard to the age of the injured. A sum of Rs.2,199/- has been awarded towards medical expenses which should also have been more having regard to the period of treatment taken and having regard to the injury sustained. The injured by ignorance or want of knowledge has only claimed a sum of Rs.2,199/- which has been awarded as per the bills. Therefore, the quantum of compensation awarded can be said to be less and not more. Therefore, the appeal has no merits and the same is dismissed.

5.In the result, the Civil Miscellaneous Appeal is dismissed. The appellant Transport Corporation is directed to deposit the entire amount of compensation awarded by the Claims Tribunal, less the amount, if any, already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimant will be permitted to withdraw the same. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(RTI)

/True copy/

sub Assistant Registrar

srm
To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Pudukkottai.

+1cc to MR.P.PRABHAKARAN,ADVOCATE IN SR NO.64947

C.M.A.(MD) No.1172 of 2014
04.12.2014

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