

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

C.M.A.No.1034 of 2016

and C.M.P.No.7964 of 2016

The Managing Director,  
Tamil Nadu State Transport Corporation  
[Villupuram] Ltd.,  
Villupuram 605 602. ..Appellant/Respondent NO.2

Vs.

1.Manoharan ..Respondent No.1/Petitioner  
2.Sivanesan ..Respondent No.2/Respondent No.1  
3.Rajadurai ..Respondent No.3/Respondent No.3  
4.United India Insurance  
Co. Ltd.,  
Chidambaram. .. Respondent No.4/Respondent-4  
[R3 and R4 are given up]

Civil Miscellaneous Appeal preferred against the judgment and award passed in M.C.O.P.No.80 of 2011 dated 15.02.2013 on the file of the Motor Accidents Claims Tribunal [Subordinate Judge], Chidambaram.

For Appellant : Mr.K.J.Sivakumar

#### J U D G M E N T

The Transport Corporation has come up with this appeal challenging the quantum of compensation awarded by the Tribunal.

2. For the injuries sustained in an accident on 29.05.2009, a 25 year old Driver approached the Tribunal, claiming compensation of Rs.5,00,000/- and the Tribunal fixed his income as Rs.7,500/- and granted compensation of Rs.1,37,500/-. The appellant/Transport Corporation submitted that the amount of compensation awarded by the Tribunal is excessive and hence, it has got to be interfered with.

3. Based on the oral evidence of the witnesses and the documentary evidence, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:

| Sl.No | Head                                                       | Amount granted by the Tribunal |
|-------|------------------------------------------------------------|--------------------------------|
| 1     | Disability of 25% at the rate of Rs.2,000/- per percentage | Rs. 50,000/-                   |
| 2     | Medical expenses                                           | Rs. 15,000/-                   |
| 3     | Loss of income for 3 months [7500 x 3]                     | Rs. 22,500/-                   |
| 4     | Transport                                                  | Rs. 15,000/-                   |
| 5     | Pain and suffering                                         | Rs. 25,000/-                   |
| 6     | Attender charges                                           | Rs. 5,000/-                    |
| 7     | Extra nourishment                                          | Rs. 5,000/-                    |
|       | Total                                                      | Rs.1,37,500/-                  |

Aggrieved over the said award, the Transport Corporation has come forward with this appeal.

4. Heard the learned counsel for the appellant and perused the materials available on record.

5. In an accident that took place on 29.05.2009, the claimant/<sup>1<sup>st</sup></sup> respondent sustained injuries on his head, face and fracture on right chin. The Doctor assessed his disability at 25%. The Tribunal, after considering the evidence on record and also taking note of the evidence of P.W.2 Doctor and scrutinizing all the exhibits viz., Exs.P1 to P14, came to the conclusion that the claimant/<sup>1<sup>st</sup></sup> respondent would be entitled to a compensation of Rs.1,37,500/-.

6. According to the learned counsel for the appellant/Transport Corporation, the disability assessed by the doctor is on the higher side. On a perusal of the award, it is clear that the injured has taken treatment as an out-patient initially in Annamalai Nagar hospital and continued his treatment at JIPMER hospital, Pondicherry and hence, the compensation for the disability of the injured claimant/<sup>1<sup>st</sup></sup> respondent assessed at 25%, cannot be said to be excessive.

7. The Tribunal has granted compensation of a sum of Rs.1,37,500/- under various heads as referred to above. A glance of the award would go to show that the Tribunal has granted compensation for the loss of income and also for the percentage of disability. Taking note of the nature of the injuries sustained by the injured, this Court is of the view that the percentage of disability fixed at 25% and a sum of Rs.2,000/- granted per percentage cannot be excessive as claimed by the appellant/Transport Corporation. This Court is also of the view that all other amounts granted by the Tribunal under all other heads are reasonable. That apart, the percentage of interest granted by the Tribunal is also confirmed.

8. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. It is made clear that if no amount is deposited so far, the appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.80 of 2011 on the file of the Motor Accidents Claims Tribunal [Subordinate Judge], Chidambaram, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimant in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company. No costs. Consequently, connected Miscellaneous Petition is closed.

9. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016, scrupulously.

Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To :

1. The Motor Accidents Claims Tribunal,  
Subordinate Judge, Chidambaram.
  2. The Section Officer, VR Section, High Court, Madras.
- Copy to: The Managing Director, T.N.S.T.C. (Villupuram) Ltd.,  
Villupuram 605 602.

C.M.A.No.1034 of 2016  
and  
C.M.P.No.7964 of 2016

RSK(CO)  
Eu 17.08.16