

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.04.2016

CORAM:

THE HON'BLE Mr.JUSTICE S.VAIDYANATHAN

C.M.A.No.1082 of 2016
and C.M.P.No.8058 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Limited,
No.3/137, Salamedu,
Vazhuthareddy,
Villupuram-605 602. ... Appellant

Vs.

R.Kanakaraj @ Venkatakrishnan ... Respondent

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 25.06.2014 made in M.C.O.P.No.2499 of 2009 on the file of the learned Principal Subordinate Judge, Motor Accidents Claims Tribunal, Cuddalore.

For Appellant :Mr.K.J.Sivakumar

For Respondent :Mr.A.N.Viswanatha Rao

J U D G M E N T

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the judgment and decree dated 25.06.2014 made in M.C.O.P.No.2499 of 2009 on the file of the learned Principal Subordinate Judge, Motor Accidents Claims Tribunal, Cuddalore.

2. For the injuries sustained in an accident on 16.08.2009, a 34 year old business man, who is the Proprietor of Kaviya Pazhamuthur Solai, has approached the Tribunal, claiming compensation of Rs.15,00,000/- and the Tribunal fixed his monthly income as Rs.5,000/- and granted compensation of Rs.6,52,686/-.

3. Learned counsel for 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.

4. 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.N o.	Head	Amount granted by the Tribunal
1	Loss of income [5000 x 12 x 35 x 16/100 = 336000]	Rs.3,36,000/-
2	Pain and suffering	Rs. 20,000/-
3	Transport	Rs. 50,000/-
4	Extra nourishment	Rs. 5,000/-
5	Medical bills	Rs.2,31,686/-
6	Loss of income for 2 months [5000 x 2]	Rs. 10,000/-
	Total	Rs.6,52,686/-

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

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

6. In an accident that took place on 16.08.2009, the claimant/respondent sustained grievous injuries, due to which, he is unable to stand, walk and attend to his day-to-day work. The Doctor assessed his disability at 35%. The Tribunal, after considering the evidence on record and taking note of the evidence of P.W.2-Doctor and scrutinizing all the exhibits viz., Exs.P1 to P15, came to the conclusion that the claimant/respondent would be entitled to a sum of Rs.6,52,686/- as compensation.

7. 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 and continued his treatment by taking physiotherapy and hence, the compensation for the disability of the injured claimant/respondent assessed at 35%, cannot be said to be excessive.

8. The Tribunal has granted compensation of a sum of Rs.6,52,686/- 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 injuries sustained by the injured, this Court is of the view that the percentage of disability of the claimant fixed at 35% cannot be said to be excessive as contended by the appellant/Transport Corporation. This Court is also of the

view that the compensation awarded by the Tribunal under all other heads are reasonable. That apart, the percentage of interest granted by the Tribunal is also confirmed.

9. 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.2499 of 2009 on the file of the Motor Accidents Claims Tribunal [Principal Subordinate Judge], Cuddalore, 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.

10. 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 III)

//True Copy//

Sub Assistant Registrar

gya/aeb

To :
The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

1 cc to M/s.A.N.Viswanatha Rao, Advocate, sr.27671

C.M.A.No.1082 of 2016
and
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mpi co
kra 12.07.2016