

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.1101 of 2016

&

C.M.P.No.8200 of 2016

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

Vs.

S.Navaneethakrishnan ..Respondent/Claimant

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 as against the Judgment and decree dated 06.02.2013, made in M.C.O.P. No.3258 of 2009, on the file of Motor Accidents Claims Tribunal, V Small Causes Court, Chennai.

For Appellant :: Mr.K.J.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the judgment and decree dated 06.02.2013, made in M.C.O.P. No. 3258 of 2009, on the file of Motor Accidents Claims Tribunal, V Small Causes Court, Chennai.

2. In an accident that took place on 15.09.2009, a 28 year old, an Engineer in M/s.Ega Trade Centre, by name, S.Navaneethakrishnan, who sustained lateral Malleolus fracture on right ankle, had approached the Tribunal claiming compensation to the tune of Rs.6,00,000/-.

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

| Sl.No | Head                                          | Amount granted by the Tribunal |
|-------|-----------------------------------------------|--------------------------------|
| 1     | Loss of earning                               | Rs. 15,000                     |
| 2     | Transport to Hospital                         | Rs. 7,000/-                    |
| 3     | Extra Nourishment                             | Rs. 5,000/-                    |
| 4     | Damage to clothes                             | Rs. 500/-                      |
| 5     | Medical expenses                              | Rs. 33,154/-                   |
| 6     | Pain and suffering                            | Rs. 25,000/-                   |
| 7     | Disability at 25% at Rs.2000/- per percentage | Rs. 50,000/-                   |
|       | Total                                         | Rs.1,35,654/-                  |

4. Aggrieved over the said award, the Transport Corporation has come forward with this Civil Miscellaneous Appeal.

5. The main contention of the learned counsel for the appellant/Corporation is that the Tribunal erred in awarding compensation towards disability at 25% and further the compensation awarded under other heads are on the higher side and hence the learned counsel prayed for interference of this Court and in any event, according to him, the compensation should be reduced.

6. A glance of the award of the Tribunal would make it clear that pursuant to the accident that took place on 15.09.2009, the injured was taken to Sooriya Hospital, Saligramam, from the place of incident, where he was treated as an inpatient for a period of 5 days. The Tribunal, taking note of the injuries sustained viz., multiple fractures over right leg and multiple injuries all over the body, as evidenced from the evidence of P.W.2, the Doctor, who has assessed the disability at 45%, fixing only a sum of Rs.2,000/- per percentage of disability, awarded a sum of Rs.50,000/- under the head 'disability'. A Division Bench of this Court in the cases in (I) Karuppasamy vs. M.Thirumal and others (reported in CDJ 2015 MHC 2735) and in (ii) New India Assurance Co. Limited vs. V.Kannayiram, reported in 2012(1) TN MAC 611 has granted Rs.3,000/- per percentage of disability. By applying the said judgment, the claimant would be entitled for much more compensation. Even assuming for a moment that the percentage of disability fixed by the Tribunal is on the higher side, for the sake of argument, certainly, the compensation towards damages to clothes and for extra nourishment are very meagre. Hence this

Court finds no reason to interfere with the compensation awarded by the Tribunal and accordingly, the appeal is dismissed. No costs. Connected miscellaneous petition is closed.

7. The Appellant Transport Corporation is directed to deposit the entire award amount together with proportionate costs and interest @ 7.5% per annum from the date of claim petition to the credit of M.C.O.P.No.3258 of 2009, on the file of the Motor Accidents Claims Tribunal, V Court of Small Causes, Chennai, if not already deposited, within a period of six weeks from the date of receipt of a copy of this order and on such deposit being made, the respondent herein/claimant is entitled to make necessary application to withdraw the same.

-s/d-

Assistant Registrar(CSIII)

True Copy

Sub-Assistant Registrar

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To

The V Judge,

Motor Accidents Claims Tribunal,

Small Causes Court, Chennai

C.M.A. No.1101 of 2016

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