

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

C.M.A.No.1112 of 2016
and C.M.P.No.8341 of 2016

The Managing Director,
State Express Transport
Corporation Ltd.,
Thiruvalluvar House,
Pallavan Salai,
Chennai-2.

..Appellant/Respondent

Vs.

V.Samidurai

..Respondent/Petitioner

Civil Miscellaneous Appeal filed U/S.173 of Motor Vehicle Act 1988 against the Judgment and decree dated 16.02.2012 made in M.C.O.P.No.1603 of 2010 on the file of the Motor Accidents Claims Tribunal, [I Addl. Subordinate Judge], Cuddalore.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the judgment and decree dated 16.02.2012 made in M.C.O.P.No.1603 of 2010 on the file of the Motor Accidents Claims Tribunal [I Addl. Subordinate Judge], Cuddalore.

2. On 03.08.2010 at 10.30 p.m., when the claimant/respondent was nearing Periyapattu bus stop by walk, the driver of the respondent/Transport Corporation bus bearing Registration No.TN-01-N-6831 at a very high speed, in a rash and negligent manner, hit the claimant, thereby, he sustained injuries on his head and all over the body. Claiming compensation to the tune of Rs.5,00,000/-, the claimant approached the Tribunal by filing M.C.O.P.No.1603 of 2010.

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	Disability [4000x12x10x14/100]	Rs. 67,200/-
2	Pain and suffering	Rs. 30,000/-
3	Medical expenses	Rs. 15,000/-
4	Transportation	Rs. 10,000/-
5	Loss of income for 2 months [4000x2]	Rs. 8,000/-
6	Extra nourishment and damage to articles	Rs. 25,000/-
	Total	Rs.1,55,200/-

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

5. In an accident which took place on 03.08.2010, a 45 year old man working as a labour in SIPCOT, sustained injuries viz., compound fracture in left hand and grievous injury in left knee. The Doctor assessed his disability at 20%. The Tribunal, after analysing the entire evidence, both oral and documentary, has come to the conclusion that the accident was the result of rash and negligent driving of the driver of the Transport Corporation. The Tribunal has fixed the monthly income of the claimant as Rs.4,000/- and applying the multiplier of 14, awarded a sum of Rs.67,200/- as compensation towards disability and has passed an award for a sum of Rs.1,55,200/- as total compensation. Aggrieved over the same, the Transport Corporation has preferred the present appeal.

6. It is the submission of the learned counsel for the appellant that the Tribunal erred in adopting multiplier method to calculate the loss of earning capacity of the injured.

7. Due to the injuries sustained by the claimant on his left hand and knee, there is functional disability. In view of the same, he is not in a position to carry on his avocation. Under such circumstances, the Tribunal has rightly adopted the multiplier method, which cannot be said to be wrong. On a perusal of the award, this Court is also of the view that the compensation 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.1603 of 2010 on the file of the Motor Accidents Claims Tribunal, [I Addl. 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.

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(V)

//True Copy//

Sub Assistant Registrar

gya/aeb

To

The Motor Accidents Claims Tribunal,
[I Addl. Subordinate Judge],
Cuddalore.

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C.M.A.No.1112 of 2016
and

C.M.P.No.8341 of 2016

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