

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1036 of 2016

and

CMP.No.7966 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Division I, Railway Station Road,
Kumbakonam. ... Appellant/Respondent

Vs.

Ramachandran ... Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 25.09.2013 made in M.C.O.P No.30 of 2012 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Cuddalore.

For Appellant : Mr. D.Venkatachalam

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. In an accident which occurred on 07.12.2011, the appellant Transport Corporation bus bearing Registration No. TN 68 N 0052, came from the opposite direction and dashed against the petitioner's tyre cart, on Panruti Gandhi Road, near Uzhavar Santhai. Due to the accident, the claimant sustained grievous injury on the hip and multiple injuries all over the body. One of his bullock is stated to be dead and cart's wheel was also damaged. Hence, he filed a Claim Petition before the Tribunal seeking a sum of Rs.5,00,000/- as compensation. After analyzing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.1,04,400/- as compensation, under the following heads:

Heads	Amount
Loss of Income	Rs. 59,400.00
Loss of future income for 2 months	Rs. 9,000.00
Pain and Sufferings	Rs. 10,000.00
Medical Expenses	Rs. 7,000.00
Transportation charges	Rs. 3,000.00
Extra Nourishment & Attender charges	Rs. 3,000.00
Charges towards injury to bullock and damage to the tyre cart	Rs. 13,000.00
Total	Rs.1,04,400.00

3. Learned counsel appearing for the appellant/Transport Corporation would mainly contend that the Tribunal has not considered the counter filed by the Transport Corporation. He would further contend that due to the accident, no bullock died, but it only sustained injuries. The claimant sustained only simple injuries, but the Tribunal has erred in granting a huge amount towards compensation. The Tribunal is also wrong in awarding the compensation towards Loss of Income for the Permanent Disability of 10%, by adopting '11' multiplier. The Tribunal is not just in awarding Rs.9000/- towards loss of future income, while a huge amount has already been awarded towards Loss of Income. The amount awarded under the other heads are also on the higher side and hence this Appeal has been filed, seeking this Court to interfere with the quantum of compensation awarded by the Tribunal.

4. It is found from the records that the Tribunal has passed the award based on documentary evidences and depositions of the prosecution witnesses. It has been stated by the Doctor that due to the injuries sustained by the claimant on the hip and the other grievous injuries, there is a partial permanent disability of 10%. Due to the accident, the cart's wheel is damaged and the bullocks are injured, through which he was earning his livelihood. The injured claimant was the only bread winner of the family and considering the same the Tribunal has awarded the compensation towards loss of income for two months, while he was under treatment.

5. This Court considered the submissions made by the learned counsel for the appellant and perused the materials available on record. Since the respondent/ claimant will not be prejudiced with the result of this Appeal, the main case itself is disposed of at the stage of admission itself, without serving notice to them.

6. The Tribunal, on considering the fact that the injured claimant was earning his livelihood, only based on the income received from his tyre cart and that due to the accident his income to the family was totally affected, has rightly granted the compensation towards 'Loss of Income'. Further, the Tribunal has also considered the fracture and other injuries of the claimant at the age of 55, the period of treatment undergone by him and had granted a reasonable compensation towards loss of future income. This Court finds the amount granted under the other heads are also fair and reasonable. Considering the avocation, age of the injured claimant, fracture injury sustained by the claimant, his period of treatment, the damage to his tyre cart and bullocks, the Tribunal has awarded a fair and reasonable compensation, which needs no interference.

7. 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. The appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest, less the amount already deposited, if any, to the credit of M.C.O.P.No.30 of 2012 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Cuddalore, within a period of eight 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 C.M.P is also closed.

avr

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,Cuddalore.

2. The Section Officer,V.R.Section, High Court,Madras.

copy to:

The Managing Director,
Tamil Nadu State Transport Corporation
Division I, Railway station Road,
Kumbakonam.

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