

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1041 of 2016

and

CMP.No.7973 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Bharathipuram, Dharmapuri - 5 ..Appellant/Respondent

Muthu Vs. ..Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 26.02.2008, made in M.C.O.P No.769 of 2006 on the file of the Motor Accident Claims Tribunal, I Additional District Judge, Krishnagiri.

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. On 02.08.2003, while the injured claimant was about to get down from the appellant Transport Corporation bus bearing Registration No.TN 29 N 0796, Town bus plying from Dharmapuri to Weavers Colony, at Weavers Colony bus stop, the driver moved the bus in a rash and reckless manner, whereby the claimant fell down from the bus and sustained contusion on the right wrist, femur's right neck and right radius fractures and also multiple injuries all over her body. Hence, she filed a Claim Petition before the Tribunal seeking a sum of Rs.4,00,000/- as compensation. After analyzing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.1,50,400/- as compensation, under the following heads:

Heads	Amount
Partial and permanent Disability	Rs.1,40,400.00
Pain and Sufferings	Rs. 5,000.00
Transport Expenses	Rs. 1,000.00

Heads	Amount
Extra Nourishment	Rs. 1,000.00
Partial Loss of Income	Rs. 3,000.00
Total	Rs.1,50,400.00

3. Learned counsel appearing for the appellant/Transport Corporation would mainly contend that the Tribunal has erred in granting compensation, by adopting multiplier method in calculating the earning capacity, when it has not been proved by the claimant as to how the disability sustained by her would affect her future earning power. He would further contend that the Disability of 30% assessed by the Doctor, ought not to have been agreed by the Tribunal, when the injuries sustained by the claimant is not grievous in nature. The Tribunal has also erred by considering the evidence of PW1, when it has not been corroborated by any other independent witnesses.

4. 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.

5. It is found from the records that the Tribunal has passed the award based on documentary evidences and depositions of the witnesses. It has been proved before the Tribunal that the driver of the appellant Corporation bus is responsible for the accident and hence the liability has been fixed on the appellant Transport Corporation. It has been stated by the Doctor that due to the fracture sustained by the claimant on the hip, the fracture on the radius bone which has been mal-united resulting in restriction of the right forearm movements and the plate fixed in the femur, the partial permanent disability of the claimant is fixed at 60%. However, the Tribunal has considered only 30% as the disability suffered by the claimant. Though it is deposed by the claimant that she was working as a Noon Meal Ayya and is also doing milk business, the Tribunal has fixed her monthly income at Rs.3000/- per month, as per the ratio laid down by the Apex Court and has adopted correct multiplier to award compensation towards permanent disability. Hence, the award granted by the Tribunal is fair and reasonable and needs no interference. The compensation granted by the Tribunal under the other heads, are also fair and reasonable and hence, this Court finds that the quantum of compensation is not excessive and the same is confirmed.

6. 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.769 of 2006 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Krishnagiri, 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 M.P.No.1 of 2013 is also closed.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

avr
To

1. The Additional District Judge,
Motor Accidents Claims Tribunal,
Krishnagiri.

2. The Section Officer, VR Section, High Court, Madras.

Copy to: The Managing Director, T.N. State Transport
Corporation, Limited, Barathipuram, Dharmapuri.

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