

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2016

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1188 of 2016

and

C.M.P.No.8988 of 2016

State Express Transport Corporation Limited,
rep.by its Managing Director,
Pallavan Salai,
Chennai-2.

... Appellant/Respondent

-vs-

P.Ganapathi

... Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 10.12.2011 made in MCOP No.4394 of 2003 on the file of the Motor Accidents Claims Tribunal, VI Small Causes Court, Chennai.

For Appellant :: Mr.K.J.Sivakumar

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 10.12.2011 made in MCOP No.4394 of 2003 on the file of the Motor Accidents Claims Tribunal, VI Small Causes Court, Chennai.

2.The facts arising out of this Civil Miscellaneous Appeal are as follows:

On 17.05.2003 at about 22.00 hours, the respondent/claimant was travelling in a van bearing Registration No.TN-22-T-8370 in the GST Road, Chennai, from South to North direction. When the van was nearing Thozhupedu Check Post, a bus bearing Regn.No.TN-01-N-6392, belonging to the appellant Transport Corporation, driven by its driver in a rash and negligent manner, came from the opposite direction and hit the van in which the claimant was travelling. Due to the said impact, the petitioner sustained grievous injuries and he was taken to the Chengalpattu Government Hospital wherein he was treated as in-patient from 20.05.2003 to 13.06.2003. Thereafter, he took treatment in St.Isabel's Hospital.

3.The claimant claimed a sum of Rs.6,00,000/- before the Tribunal. The Tribunal, on consideration of the materials and evidence available on record, awarded a compensation of Rs.3,65,317/- with interest at 7.5% p.a., from the date of petition till the date of deposit, but excluding the interest for the period of dismissal for default, ie., from 10.09.2008 to 29.07.2011. Challenging the award of the Tribunal, the appellant Transport Corporation has come up before this Court with this appeal, stating that the Tribunal has failed to note that no valid document was filed by the claimant to prove his age and income, and that the Tribunal ought not to have taken the permanent disability of the claimant as 30% and the same is on the higher side.

4.Heard the learned counsel for the appellant / Transport Corporation and perused the materials and evidence available on record carefully.

5.The Tribunal has awarded a compensation of Rs.3,65,317/- with interest at 7.5% p.a., from the date of petition till the date of deposit, but excluding the interest for the period of dismissal for default, ie., from 10.09.2008 to 29.07.2011. The details of the compensation are as under:

HEADS	AMOUNT (Rs.)
1.Pecuniary loss	2,44,800/-
2.Loss of income during the treatment period	4,000/-
3.Transportation	7,000/-
4.Extra nourishment	5,000/-
5.Medical expenses	69,517/-
6.Pain and suffering	35,000/-
Total....	3,65,317/-

6.With regard to the amounts awarded towards loss of income during the treatment period, transportation, extra nourishment and pain and suffering, this Court is of the view that the same are just and reasonable and hence the same are confirmed. With regard to the amount awarded towards medical expenses, the same has been awarded only based on the medical bills, having found

that there is no dispute regarding the same. Hence the amount awarded towards medical expenses is confirmed. Further, with regard to pecuniary loss, the Tribunal has taken the monthly income of the claimant as Rs.4,000/-, adopted the multiplier of 17 and having found that the claimant sustained 30% disability, arrived at a sum of Rs.2,44,800/- towards pecuniary loss. In fact, P.W.2-Dr.J.R.R.Thiagarajan, who examined the claimant, stated that the petitioner sustained fracture of left tibia and right femur and due to the same, he is unable to bend either of his legs freely and he finds it difficult to do any work and absolutely there is no scope that he would do his work as driver or any other work in future, and fixed the disability at 95%. But the Tribunal reduced the same to 30% and adopted the multiplier method. Therefore, the contention of the learned counsel for the appellant that the disability fixed by the Tribunal is on the higher side, cannot be countenanced. Hence, the amount arrived by the Tribunal towards pecuniary loss is confirmed.

7.In the result, the judgment and decree dated 10.12.2011 made in MCOP No.4394 of 2003 on the file of the Motor Accidents Claims Tribunal, VI Small Causes Court, Chennai, is confirmed and the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

KM

To

1.The Motor Accidents Claims Tribunal,
VI Small Causes Court, Chennai.

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

+1 cc to M/s.K.J.Sivakumar Advocate sr.31479

C.M.A.No.1188 of 2016
and
C.M.P.No.8988 of 2016

aa28/07/2016