

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 11.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T. MATHIVANAN

C.M.A.No.1379 of 2016

and

C.M.P.No.10548 of 2016

The Managing Director,
Tamilnadu State Transport Corporation,
(Kumbakonam Division -1) Limited,
Railway Station New Road,
Kumbakonam-612 001.
Appellant/Respondent

...

Versus

N.Chinna Durai

...Respondent/Respondent

Prayer: Civil Miscellanies Appeal has been filed under Section 173 of the Motor Vehicles Act of 1988, against the Judgement and decree dated 11.10.2012 passed in M.C.O.P.No.2992 of 2008 on the file of the Motor Accident Claims Tribunal(I Additional Subordinate Judge), Cuddalore.

For Appellant :Mr.V.S.Vijay Veliappan

JUDGMENT

Questioning the quantum of compensation to the extent of Rs.1,65,500/-, the appellant/ Tamilnadu State Transport Corporation Ltd., has preferred this Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act of 1988.

2. Heard Mr.V.S. Vijay Veliappan, learned counsel appearing for the appellant/Transport Corporation.

3. As it is revealed from the averments of the claim petition, the respondent, while riding his Bullock Cart at Chennai - Kumbakonam Main Road near Abatharanapuram, Vadalur, a passenger Bus bearing Registration No.TN-49-N-1411, came in a hectic speed and rammed the Bullock Cart. As a result of which, the respondent had sustained severe injuries and both the Bullocks were also sustained injuries and after some days, the Bullocks were dead. The respondent had claimed a total sum of Rs.5,00,000/-, towards compensation.

4. Despite the contest made by the appellant/Transport Corporation, placing reliance upon the available evidences both oral and documentary, the Claims Tribunal had proceeded to award a total compensation of Rs.1,65,500/- by applying multiplier method, under the following heads:

(i) Towards the loss of earning capacity to the extent of 10%	Rs.84,000/-
(ii) Pain and Sufferings	Rs.20,000/-
(iii) Loss of Earnings for 2 months (5000x2)	Rs.10,000/-
(iv) Medical Expenses	Rs.3,500/-
(v) Transport Charges	Rs.5,000/-
(vi) Extra Nourishment	Rs.3,000/-
(vii) Towards Cart repair charges	Rs.16,000/-

Besides this, the Tribunal had also awarded compensation for the death of the both Bullocks each @ Rs.12,000/- i.e., Rs.24,000/-. In total, the Tribunal had awarded a sum of Rs.1,65,500/-, directing the appellant/Transport Corporation to pay this amount to the respondent with interest @ 7.5% p.a.

5. Mr.V.S.Vijay Veliappan, learned counsel appearing for the appellant/Transport Corporation has mainly attacked the method of multiplier system adopted by the Tribunal, while calculating the quantum of compensation. The learned counsel has submitted that the respondent himself had sustained injuries, which is simple in nature and that is why, despite the fixation of disability @ 30% by PW2, Dr.R.Venugopal, the Tribunal had reduced the same to the extent of 10%. Therefore, he has submitted that adopting multiplier system for arriving at the quantum of compensation for simple injuries, the award itself seems to be disproportionate and liable to be set aside.

6. This Court, based on the available materials placed on record, has found that the Tribunal ought not to have adopted the multiplier system. As per the judicial pronouncements of our High Court, a sum of Rs.3,000/- is being awarded per 1% of disability. Accordingly, per 10%, a sum of Rs.30,000/- can be awarded and it seems to be reasonable also (Rs.3,000/-x10%). With regard to other heads, the amount granted by the Tribunal remains intact, need not be interfered with.

7. As per the above calculation, the respondent is entitled to get a sum of Rs.1,35,500/- as compensation. Accordingly, the award passed by the Tribunal to the extent of Rs.1,65,500/- is reduced to Rs.1,35,500/-. Hence, the appellant/Transport Corporation is directed to deposit this amount, if not deposited earlier, to the credit of the Claim Petition in MCOP No.2992 of 2008 with interest @ 7.5% p.a., from the date of petition, within a period of four weeks from the date of receipt of a copy of this order. The excess amount if any deposited by the appellant/Transport Corporation shall be refunded along with

proportionate accrued interest. Accordingly, the Civil Miscellaneous Appeal is allowed partly. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,
(I Additional Subordinate Judge)
Cuddalore.

+ 1 cc to Mr.V. S. Vijay Veliappan, Advocate Sr.38257

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VGI (CO)
Eu 24.11.16



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