

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 28.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T. MATHIVANAN

C.M.A.No.1618 of 2016

and

C.M.P.No.12217 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Railway Salai, Kumbakonam.

...Appellant

...VS...

Mr.Farook

... Respondent

Prayer: Civil Miscellaneous Appeal is filed against the Judgment and Decree dated 17.11.2011 and made in M.C.O.P.No.84 of 2010 on the file of the Motor Accident Claims Tribunal (Sub Court), Myladuthurai.

For Appellant

:Mr.V.S.Vijay Veliappan

JUDGMENT

Questioning the quantum of award, the appellant/Transport Corporation has filed this appeal under Section 173 of Motor Vehicle Act, 1988.

2. It is revealed from the records that on 29.01.2010, the respondent/claimant was travelling in a bus bearing Regn.No.TN 49 N 1939 belonging to the appellant/Transport Corporation from Kumbakonam in order to go to his house at Kuthalam. When the bus was proceeding near Kumbakonam

Chettymandalam, an unidentified Mahindra passenger van came from the opposite direction and dashed against the body of the bus near the seat where the respondent/claimant was sitting. On account of this reason, the respondent/claimant had sustained injuries over his right elbow, which resulted in fracture in 3 places. Hence, claiming a total sum of Rs.5,00,000/-, he had moved the Motor Accident Claims Tribunal with a claim petition in M.C.O.P.No. 84 of 2010.

3. Despite the contest made by the appellant/Transport Corporation, the Tribunal had proceeded to award a sum of Rs.1,05,000/- under the following heads:-

Towards permanent disability at 45%	Rs. 90,000/-
Towards pain and suffering	Rs. 5,000/-
Towards transportation	Rs. 5,000/-
Towards nutrition	Rs. 5,000/-

Total	Rs. 1,05,000/-

4. It is to be noted that at the time of accident, the respondent/claimant was aged about 46 years. The Tribunal had determined the monthly income of the deceased at Rs.6,000/- as he was working as a cook.

5. Though P.W.4, Dr.Muthu, had assessed the disability at 48%, as per Exhibit P.10 - Disability Certificate, the Tribunal had reduced the same to 45% and therefore, a sum of Rs.90,000/- was awarded based on Rs.2000/- per percentage.

6. As aforestated, the Tribunal had totally awarded a sum of Rs.1,05,000/-, directing the appellant/Transport Corporation to pay this amount with interest at the rate of 7.5%.

7. In so far as this Court is concerned, the award of the Tribunal is reasonable which is in consonance with the disability suffered by the claimant and therefore does not require any interference. Hence, the appeal is liable to be dismissed.

8. Accordingly, this appeal is dismissed and the award of the Tribunal is confirmed. The appellant/Transport Corporation is directed to pay the award amount of Rs.1,05,000/- with interest at the rate of 7.5% per annum within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Claimant is entitled to withdraw the entire award amount along with accrued interest and costs without filing any formal application, seeking permission. Consequently, connected Miscellaneous Petition is closed. No costs.

28.07.2016

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To

The Motor Accident Claims Tribunal (Sub Court), Myladuthurai

T.MATHIVANAN,J.,
nvi

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