

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.09.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.1875 of 2016
& C.M.P.No.13746 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Periya Melakuparai, Trichy-1. ... Appellant/Respondent

Versus

Theivamary ... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 07.01.2016 made in M.C.O.P.No.52/2015 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Perambalur.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The Managing Director of Tamil Nadu State Transport Corporation has filed the present Civil Miscellaneous Appeal, challenging the correctness of the impugned award dated 07.01.2016 made in M.C.O.P.No.52/2015 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Perambalur.

2.Learned counsel appearing for the appellant would submit that the learned Tribunal has wrongly awarded a sum of Rs.2,00,000/- towards attender charges, although the injured, who was employed as a Scavenger in ESI Hospital at Trichy, claimed to have earned the monthly income at Rs.14,000/-. Secondly it was contended that after granting a sum of Rs.2,00,000/- towards pain and suffering, a sum of Rs.11,57,520/- has been erroneously awarded towards loss of future income. Therefore, the impugned award passed by the learned Tribunal is liable to be interfered.

3.But this Court is not able to find any merit on his submissions. The injured/respondent herein was working as a Scavenger at ESI Hospital, Trichy at the monthly income of

Rs.14,000/-. While so, on 08.10.2014 at about 06.30 p.m. after completion of her official duty, she was returning home, when she went to entrance of the Central Bus stand, a bus bearing Registration No.TN 45 N 2939, belonging to the Transport Corporation/appellant herein, came rashly and negligently and dashed against her. As a result, the injured/respondent fell down and the left front tyre of the bus ran over her right leg. She was immediately taken to G.H., Trichy and she had taken treatment as inpatient. In the meanwhile, First Information Report has been registered under Sections 279 and 338 IPC in Crime No.277 of 2014 on the file of Traffic South Investigation Pirivu Police Station, clearly mentioning as to how the accident had taken place. Finally, when the matter came up for trial, the Trial Court finding that the injured, who was working as a Scavenger in ESI Hospital at Trichy and drawing her monthly salary at Rs.14,000/-, was unable to continue as a Scavenger, accepting the disability certificate, certifying 65% of her disability, has rightly come to the conclusion that the injured had totally lost her capacity to continue as a Scavenger in the ESI Hospital. Therefore, the learned Tribunal has rightly adopted multiplier method using 13 as a multiplier, as per the ratio laid down by the Hon'ble Apex Court in the case of Sarla Verma. Learned Tribunal, as per Ex.P.4, which was marked as Salary Certificate of the injured, has fixed Rs.14,840/-, as her monthly income and has deducted 50% towards personal expenses and proceeded to calculate the loss of future income as $7420 \times 12 \times 13$, which comes to Rs.11,57,520/-. This Court, finding that fixing Rs.2,00,000/- towards pain and suffering and Rs.2,00,000/- towards attender charges, cannot be found fault with, is not inclined to interfere with the impugned award. Accordingly the award is confirmed and the appeal is dismissed. No costs. Consequently, Connected miscellaneous petition is closed.

4.Since the learned counsel for the appellant submitted that the appellant had deposited a sum of Rs.25,000/- towards statutory deposit, the balance amount is directed to be deposited within a period of six weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimant to move a petition before the Tribunal for withdrawing the said amount.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate, Perambalur.

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

+1 cc to Mr.D.Venkatachalam Advocate sr 51353

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