

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2355 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
Coimbatore Division II
Chennimalai Road, Erode

.. Appellant

-vs-

1. T.Athithan
2. Balakrishnan

.. Respondent

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 28.01.2015 made in M.C.O.P.No.580 of 2012 on the file of the Motor Accident Claims Tribunal, (IV Additional District Judge), Erode District at Bhavani.

For Appellant

:: Mrs.R.T.Sundari

JUDGMENT

Aggrieved by the impugned award passed by the Motor Accident Claims Tribunal (IV Additional District Judge) in M.C.O.P.No.580 of 2012 dated 28.01.2015 awarding a sum of Rs.6,76,422/-, as against the claim of Rs.10,00,000/-, together with interest at the rate of 7.5% per annum for the multiple injuries sustained by the injured claimant, who was serving as Junior Inspector of Sericulture in the Department of Sericulture, Government of Tamil Nadu, the Transport Corporation has brought this appeal challenging the quantum alone.

2. Learned counsel for the appellant has submitted that the Tribunal has awarded a huge sum of Rs.50,000/- towards pain and suffering and also a sum of Rs.50,000/- towards transportation charges, which are excessive on the facts of this case.

3. Heard the learned counsel for the appellant.

4. It is a case of multiple injuries sustained by the claimant. On 11.2.2012 at about 8.30 P.M., while the first respondent claimant was proceeding in his Hero Honda motorcycle bearing Registration No.TN 33 AJ 0771 from Erode Town to his residence in Sathyamangalam road, near Veerappan Chatram Mariamman temple, a bus belonging to the Transport Corporation bearing Registration No.TN 33 N 2099 hit him from behind, as a result he fell down on the road along with his vehicle and due to the said impact, his left side foot got crushed apart from other injuries being sustained all over his body. Immediately he was taken to Erode Trust Hospital and after giving first-aid, he was taken to Ganga Medical Centre and Hospital (P) Limited, Coimbatore for further treatment, wherein he was admitted as an in-patient for more than a month. During his stay in the Ganga Medical Centre and Hospital (P) Limited, Coimbatore, he underwent a major surgery in the left leg and as the injured has submitted medical bills for a sum of Rs.4,62,172/- under Ex.P9 series and another X-Ray bill for Rs.250/- under Ex.P19, considering the fact that there was no agitation on the claim of medical bills, the Tribunal has

awarded a sum of Rs.4,62,422/- towards the medical expenses. The discharge summary, Ex.P11 shows that the injured was admitted on 13.2.2012 and discharged on 5.3.2012 and again admitted on 19.3.2012 and discharged on 28.3.2012 in Ganga Medical Centre and Hospital (P) Limited, Coimbatore as an in-patient for treatment of the injuries, namely, sutured laceration of the heel pad, distally based heel pad flap, bluish black discolouration of the proximal part of heel pad, decreased sensations over the plantar aspect of foot. It is also mentioned in Ex.P12 discharge summary that the injured has sustained well settled gracilis flap over left heel. As there were multiple injuries sustained by the injured, which are grievous in nature, the fixation of Rs.50,000/- by the Tribunal towards pain and suffering cannot be considered as exorbitant.

5. Further, the doctor, P.W.2 has opined that the injuries sustained by the claimant are grievous in nature and for which he was issued with a disability certificate, Ex.P18 indicating 25% disability sustained by the injured. Considering the evidence of the doctor and the nature of injuries sustained by the injured in the accident, the Tribunal, fixing 25% disability, has rightly awarded a sum of Rs.50,000/- at the rate of Rs.2,000/ per percentage of disability. Similarly, as the injured was shifted from Erode Trust Hospital to Ganga Medical Centre and Hospital (P) Limited, Coimbatore for better treatment as an in-patient and subsequently was also taking treatment for more than a month, the fixation of Rs.50,000/- towards the transportation expenses also cannot be found

unreasonable. As the amounts awarded under the other heads are also found reasonable, this Court is not able to find any infirmity with the impugned award. Hence the civil miscellaneous appeal fails and it is dismissed. Consequently, C.M.P.No.16428 of 2016 is also dismissed.

6. Since only the statutory amount of Rs.25,000/- has been deposited, the appellant Transport Corporation is directed to deposit the balance award amount along with interest to the credit of the M.C.O.P.No.580 of 2012 on the file of the Motor Accident Claims Tribunal (IV Additional District Judge), Erode District at Bhavani within a period of four weeks from the date of receipt of a copy of this order and the injured claimant is entitled to withdraw the entire amount along with accrued interest by moving appropriate application before the Tribunal.

Index : yes/no

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To

1. The IV Additional District Judge
Motor Accident Claims Tribunal
Erode District at Bhavani

T.RAJA, J.

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