

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2016

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.2745 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation Kumbakonam Ltd.,
Kumbakonam Town. Appellant/Respondent

versus

Jayanthi ... Respondent/Petitioner

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 10.03.2016, made in M.C.O.P.No.226 of 2014 on the file of the Motor Accident Claims Tribunal, (Judicial Magistrate) Mannarkudi.

For Appellant : Mr.D.Venkatachalam
For Respondent : Mr.S.P.Yuvaraj

JUDGMENT

Jayanthi, aged about 23 years, earning a sum of Rs.4,500/- per month by being employed as an agricultural cooly, suffered injuries in an accident, which took place on 05.06.2012, and in respect of the same, she filed a claim petition, claiming a sum of Rs.6,00,000/- as compensation.

1.1. As against the claim made, the Tribunal has awarded a sum of Rs.3,79,840/- as compensation, taking into account the percentage of disability at 23%. The Tribunal has adopted the multiplier of 18 and awarded a sum of Rs.3,35,340/- (Rs.6750/- x 12 x 18 x 23%) towards loss of earning capacity. The said award is under challenge by the Transport Corporation.

2. The learned counsel appearing for the appellant/Transport Corporation pointed out that it is not a case where the multiplier method ought to have been adopted, having regard to the fact that the injured has suffered only 23% of disability, which would not have much impact in the earning capacity.

3. The learned counsel for the claimant contended that because of disability, the injured would have severe handicap in the enjoyment of amenities and that in any event, the injured is entitled to disablement compensation at the rate of Rs.3000/- per percentage.

4. As rightly contended by the learned counsel for the appellant, when the percentage of disability is only 23, it may not result in loss of earning capacity, but, however, it requires enhancement in disablement compensation. Hence, disablement compensation is awarded at Rs.3000/- per percentage and in respect of 23% disability, Rs.69,000/- (Rs.3000/- x 23%) is awarded towards disablement compensation.

4.1. The Tribunal has awarded a sum of Rs.10,000/- towards pain and sufferings, which ought to have been awarded Rs.50,000/- having regard to injury suffered by the claimant and it is awarded at Rs.50,000/-.

4.2. Loss of enjoyment of amenities has not been awarded by the Tribunal and it is awarded at Rs.50,000/-.

4.3. Loss of income for three months has been considered by the Tribunal, taking the income of the injured at Rs.4,500/- p.m. which is incorrect. The claimant would not have been in a position to attend the job at least for a period of six months, having regard to the fact that the fracture was in the rib bone. Therefore, adopting the income at Rs.6,500/- p.m., the loss of income is awarded at Rs.39,000/- (Rs.6500/- x 6 months).

4.4. For attendant charges and for extra-nourishment, the amounts awarded are inadequate and it is awarded at Rs.30,000/- towards extra-nourishment and Rs.30,000/- towards attendant charges. The amount of Rs.5000/- awarded by the Tribunal towards transport charges is very low and hence, it is enhanced by Rs.15,000/-. The total award is Rs.2,83,000/-.

4.5. In the result, the Civil Miscellaneous Appeal is partly allowed, reducing the quantum of compensation as detailed above.

5. It is represented by the learned counsel for the Transport Corporation that the transport Corporation has deposited only a sum of Rs.25,000/-, which is a mandatory deposit at the time of filing the appeal.

6. Hence, the Transport Corporation is directed to deposit the amount as awarded by this Court, i.e. Rs.2,83,000/-, less the amount already deposited, along with interest at the rate of 7.5% from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of

this Judgment. On such deposit being made, the claimant is permitted to withdraw the compensation awarded by ths Court, less the amount already withdrawn if any. No costs. Consequently, C.M.P.No.19821 of 2016 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal,
Sub Judge, Mannarkudi

+1cc to Mr.D. Venkatachalam, Advocate, S.R.No.74894

+1cc to Mr.S.P. Yuaraj, Advocate, S.R.No.74856

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C.M.A.No.2745 of 2016

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