IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2016

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

C.M.A.No.672 of 2016
and
C.M.P.No.5478 of 20016

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam), Karaikudi Division ...Appellant/ 2nd Respondent

vs.

1. Jayaprakash,
S/o Krishnasamy ...Petitioner/ 1st Respondent

2. Balusamy
S/o Chelliah ...2nd Respondent/ 1st Respondent

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree in M.C.O.P.Nos.338 of 2014 dated 04.09.2015 on the file of Motor Accidents Claims Tribunal, Additional District Judge No.III, Dharapuram.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

This appeal is filed by the Transport Corporation challenging the Award of the Motor Accident Claims Tribunal, Additional District Court-III, Dharapuram, awarding a total sum of Rs.7,53,391/- to the first respondent herein.

2. This appeal is filed mainly by contending that the percentage of permanent disability fixed as 30% by the Tribunal is on the higher side and also by contending that such disability sustained by the claimant would not affect the earning capacity. The appellant has also disputed the quantum awarded towards the medical expenses.

3. After hearing the learned counsel appearing for the appellant and perusing the materials placed before this Court, this court is of the view that this is not a fit case for admission as the same is liable to be dismissed at this stage itself, based on the findings rendered by the Tribunal.

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4. It is not in dispute that the claimant sustained injuries due to the accident that had taken place and he has lost his four fingers in the right foot. Though the doctor has issued a certificate stating the disability as 60%, the Tribunal has taken into consideration of all the facts and circumstances and fixed the disability only as 30% sustained by the claimant. Accordingly, the Tribunal fixed the quantum towards the loss of income. It is not in dispute that the claimant is an agriculturist and therefore, it goes without saying that a person who lost four fingers in his right foot will not be in a position to take part in his day to day agricultural activities effectively and therefore, the Tribunal has rightly come to the conclusion while fixing the quantum of compensation towards loss of income. Likewise, for the grant of medical bills, the Tribunal relied on Ex.A16 and Ex.A17 which is not disproved by the appellant. Therefore, I find that the Award passed by the Tribunal does not warrant any interference. Accordingly, the civil miscellaneous appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

5. Learned counsel for the appellant seeks four weeks time to deposit the amount to the credit of the Tribunal below. Such time is granted.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

vsi

To

The Motor Accidents Claims Tribunal
Additional District Judge No.III
Dharapuram

1 cc to M/s.Ma.P. Thangavel, Advocate, Sr. 20456
1 cc to Mr.D. Venkatachalam, Advocate, Sr. 20092

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