

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No. 812 of 2016

&

C.M.P. No. 6555 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
Kumbakonam Divison I, Limited
Railway Station New Road
Kumbakonam 612 001 ..Appellant/Respondent

Vs.

R.Ravi ..Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal as against the Judgment and decree dated 11.09.2015 made in M.C.O.P. No. 2324 of 2013 on the file of Motor Accidents Claims Tirbunal (II Additional Suboridnate Judge), Cuddalore.

For Appellant :: Mr.D. Venkatachalam

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the judgment and decree dated 11.09.2015 made in M.C.O.P. No. 2324 of 2013 on the file of Motor Accidents Claims Tirbunal (II Additional Suboridnate Court), Cuddalore.

2. The respondent herein, filed the claim petition seeking compensation to the tune of Rs.5 lakhs, for the multiple injuries suffered including fracture in right fibula, on account of the accident that took place on 09.04.2013, at Mayiladuthurai, when the bus, belonging to the appellant Corporation dashed against the lorry bearing Registration No.TN-01-F-5252 due to the rash and negligent driving of the driver of the appellant Corporation. The Tribunal, as against the claim of Rs.5 lakhs made by the respondent herein, on analysing the evidence on record, awarded a sum of Rs.1,91,200 with interest @ 7.5% per annum from the date of claim petition till the date of deposit. Challenging the said award, on the ground of quantum, the Transport Corporation is before this Court, in this appeal.

3. Heard the learned counsel for the appellant and perused the materials on record.

4. The claimant, who is doing construction work, aged 34 years, sustained injury in the accident that took place on 09.04.2013. In the said accident, there was a fracture in right fibula and the Doctor has assessed disability at 35%. The injured had taken treatment at Government Hospital, Mayiladuthurai and thereafter at Government Hospital, Cuddalore. He claimed compensation at Rs.5 lakhs, basing on his monthly income at Rs.20,000/- per month. The Tribunal, taking note of the evidence, fixed the monthly income at Rs.5,000/-, however, adopted the multiplier of 16 and awarded compensation of a sum of Rs.1,15,200/- under the heading loss of earning capacity. It is the main grievance of the appellant that the Tribunal ought not to have adopted multiplier method in a case of injury. Though the argument advanced by the learned counsel for the appellant appears to be sound, the compensation to be granted for 35% disability at Rs.3,000/- per percentage of disability works out to Rs.1,05,000/- and thus a sum of Rs.10,200/- alone would be excessive under this head. That apart, the compensation granted under the head "pain and suffering" is very low. Hence this Court finds no reason to interfere with the compensation awarded by the Tribunal and hence the appeal is dismissed. No costs. Connected miscellaneous petition is closed.

5. The Appellant Transport Corporation is directed to deposit the entire award amount together with proportionate costs and interest @ 7.5% per annum from the date of claim petition, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the respondent herein/claimant is entitled to make necessary application to withdraw the same.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The II Additional Subordinate Judge,
Motor Accidents Claims Tribunal, Cuddalore.

+ 1 cc to M/s. D. Venkatachalam, Advocate SR.23644

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MP (CO)
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