

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.836 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Near Railway Station,
Kumbakonam. Appellant/2nd Respondent

Vs.

1. Karuppusamy
2. Vijayakumar Respondents/Petitioner/
1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 26.03.2015 made in M.C.O.P No.172 of 2014 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Gobichettipalayam.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

Challenging the award of the Tribunal mainly on the question of quantum, the Transport Corporation has come up with this appeal.

2. For the injuries sustained in a road accident that occurred on 19.01.2014, the injured filed a claim petition before the Tribunal seeking a sum of Rs.20,00,000/- as compensation. The Tribunal, on consideration of the oral and documentary evidence, awarded a sum of Rs.7,14,460/- as compensation to the claimant with interest at 7.5% per annum from the date of petition till the date of realization. Details of the award are as under:

S.No	Heads	Amount
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1	Permanent disability	Rs.1,50,000.00
2	Partial loss of earnings	Rs. 54,000.00
3	Transport to Hospital	Rs. 5,000.00
4	Extra nourishment	Rs. 15,000.00
5	Attender charges	Rs. 15,000.00

S.No	Heads	Amount
6	Medical expenses	Rs. 4,20,460.00
7	Pain and suffering	Rs. 50,000.00
8	Mental agony and shock	Rs. 5,000.00
	Total	Rs. 7,14,460.00

3. Learned counsel for the appellant/Transport Corporation contended that the Tribunal ought not to have taken the permanent disability of the claimant at 60% and awarded Rs.2,500/- for each percentage of disability and it is certainly on the higher side.

4. According to the claimant, at the time of accident, he was aged 35 years, doing whole sale banana business, agricultural work and real estate business, earning a sum of Rs.35,000/- per month. But the Tribunal, taking into account that there is no documentary proof in support of his avocation, fixed a sum of Rs.4,500/- as his notional income. The Apex Court, in the case of Syed Sadiq and others vs Divisional Manager, United India Insurance Co. Ltd. (2014 ACJ 627), fixed the notional monthly income of a vegetable vendor at Rs.6,500/-. In view of the said judgment, this Court finds no error in the fixation of the monthly income of the claimant at Rs.4,500/-.

5. Further, P.W.2 - Doctor, who examined the claimant has deposed that the claimant sustained 60% permanent disability. It is seen that the claimant sustained fracture on the frontal bone, crush injury over his right hand, commuted fracture of the shaft of right femur. He further deposed that on radiological examination, he found malunited fractures of 4th, 5th metacarpal bone of his right hand, fracture of the right leg with ankle; that there was an interlocking nail fixed over the right femur and that the movements of the right hip, right knee, right ankle of the claimant were limited and malunited fracture of right femur, right fibula and right thigh were seen.

6. Taking note of the injuries sustained by the claimant, I do not find any error in the fixation of 60% permanent disability by the Tribunal and Rs.2,500/- fixed for each percentage of disability. As far as other heads are concerned, this Court is of the view that the compensation awarded by the Tribunal is just and reasonable and accordingly, they are confirmed.

7. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. It is

made clear that if no amount is deposited so far, the appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.172 of 2014 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Gobichettipalayam, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimant in the form of a crossed Account Payee Cheque, favouring only him and it should not be issued in favour of any other person/Company. No costs. Consequently, connected C.M.P.No.6872 of 2016 is closed.

8. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016, scrupulously.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To :
The Subordinate Judge,
Motor Accidents Claims Tribunal,
Gobichettipalayam.

C.M.A.No.836 of 2016

rj co
kra 14.07.2016

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