

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.854 of 2016

The Managing Director,
State Express Transport Corporation Ltd,
Pallavan Salai,
Chennai 600 002.

.... Appellant/Respondent

Vs.

Sowgath Ali

.. Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 15.12.2014 made in M.C.O.P No.4937 of 2013 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr.P.Paramasivadoss

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. In an accident which occurred on 28.05.2013 at 7.00 hours on E.C.R. Road, the respondent/claimant sustained grievous injuries, for which, he claimed a sum of Rs.20,00,000/- as compensation. The Tribunal, on consideration of the oral and documentary evidence, fixed the negligence on the driver of the appellant/Transport Corporation Bus and awarded a sum of Rs.13,59,000/- as compensation with interest at 7.5% per annum. Details of the award are as under:

S.No.	Heads	Amount
1	Loss of income for 5 months	Rs. 75,000.00
2	Transportation	Rs. 15,000.00
3	Extra Nourishment	Rs. 20,000.00
4	Damages to clothes	Rs. 1,000.00
5	Medical expenses	Rs. 50,000.00

S.No.	Heads	Amount
6	Future Medical expenses	Rs. 50,000.00
7	Attender charges	Rs. 15,000.00
8	Loss of amenities of life	Rs. 50,000.00
9	Mental agony to the petitioner and Pain and Suffering	Rs. 75,000.00
10	Disability & Loss of Earning Power (Rs.15,000/- x 12 x 14 x 40%)	Rs. 10,08,000.00
	Total	Rs. 13,59,000.00

3. Learned counsel for the appellant/Transport Corporation contended that the quantum of compensation awarded by the Tribunal is totally on the higher side and that the Tribunal erred in fixing the claimant's salary at Rs.15,000/- per month, which is too high. He also contended that the multiplier adopted by the Tribunal is against the judgment rendered in Sarla Verma's case.

4. Though the claimant has stated that he was aged 35 years at the time of accident, i.e. on 28.05.2013, the Tribunal, relying on Ex.P5-Copy of Driving Licence, wherein, his date of birth is mentioned as 23.05.1969, came to the conclusion that he was aged 44 years at the time of accident. As regards the avocation and income of the claimant, the Tribunal examined one Ismail, owner of Thameem Travels as P.W.3, who deposed that the claimant was working under him as a Driver and he was paid a sum of Rs.16,000/- as salary per month and Rs.150/- as Batta. In support of his avocation and income, Ex.P20-Salary Certificate was marked. In view of the same, the Tribunal fixed a sum of Rs.15,000/- as the monthly income of the claimant.

5. It is important to note that in the case of Syed Sadiq and others vs Divisional Manager, United India Insurance Co. Ltd. (2014 ACJ 627), the Apex Court fixed a sum of Rs.6,500/- as the monthly income of a vegetable vendor, who sustained injuries in an accident which occurred in the year 2008. The accident in the case on hand is of the year 2013. Therefore, fixation of a sum of Rs.15,000/- as the monthly income of a Driver, aged 44 years cannot be said to be excessive in view of escalating prices in the market.

6. As regards the multiplier of '14' adopted by the Tribunal, this Court finds no error in it, as it is well applied in view of the judgment rendered in Sarla Verma's case.

7. Coming to the injuries of the claimant, it is seen that he has suffered Left Temporal Bone fracture, fracture of left clavicle, fracture of right wrist, fracture of left condyle and fracture of 7th and 8th left ribs, for which, he took four days treatment as inpatient and also took treatment as outpatient. Though, P.W.2 - Doctor, who examined the claimant assessed his disability at 95% as partial permanent, the Tribunal fixed the disability of the claimant at 40% and this Court finds no reason to interfere with the same.

8. Further, the compensation awarded under other heads, more particularly under the heads 'Loss of income for five months', 'Medical expenses' and 'Mental agony' hold good, taking into account the avocation of the claimant, as a Driver is required to be physically healthy to carry on his job. Hence this Court finds no reason to interfere with the compensation awarded by the Tribunal under the said heads.

9. 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.4937 of 2013 on the file of the Motor Accidents Claims Tribunal, [II Court of Small Causes], Chennai, 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 the claimant and it should not be issued in favour of any other person/Company. No costs. Consequently, connected C.M.P.No.6934 of 2016 is closed.

10. 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 III)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal,
II Court of Small Causes, Chennai.

C.M.A.No.854 of 2016

PUR(CO)

CA(03/08/2016)

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