IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15/04/2016

C O R A M

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.862 of 2016

The Managing Director
TNSTC Ltd
Kumbakonam. ... Appellant/Respondent

Vs

D. Marimuthu ... Respondent/Petitioner

Appeal filed under Section 173 of the Motor vehicles Act, 1988 against the judgment and decree dated 11/10/2013 made in M.C.O.P.No.2254 of 2012 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Cuddalore.

For appellant : Mr.D.Venkatachalam

J U D G M E N T

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the judgment and decree, dated 11/10/2013, passed in M.C.O.P.No.2254 of 2012, on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Cuddalore.

2. On 21/8/2012, at about 23.45 hours, when the claimant was riding his Hero Honda Motor Cycle bearing Registration No.PY01-AF-3796 with his wife and minor daughter at National Highway near Erukkur Society, the TPTC bus bearing Registration No.TN68N-0381 came behind in a rash and negligent manner and caused the accident. As a result, the claimant sustained grievous injuries.

3. The claimant approached the Tribunal, claiming compensation to the tune of Rs.10,00,000/-, for the grievous injuries sustained, loss of earnings, earning capacity, pain and sufferings, shock and mental agony, loss of amenities, comfort, cost towards treatment and transport.

4. The Tribunal based on the oral evidence of the witnesses and the documentary evidence, granted the following amounts as compensation with interest at 7.5% per annum.

S.No	Head	Amount
1.	Disability(5000 x 12 x 14 x 15 % =1,26,000/-)	Rs. 1,26,000/-
2.	Loss of Income (5000x2 month) =10,000/-	Rs. 10,000/-
3.	Medical Expenses	Rs. 2,315/-
4.	Pain & Suffering	Rs. 15,000/-
5.	Transportation	Rs. 3,000/-
6.	Extra Nourishment & Attender Charge	Rs. 3,000/-
	T O T A L	Rs. 1,59,315/-

5. The learned counsel for the appellant would submit that the Tribunal adopted multiplier method to calculate loss of earning capacity of the injured/respondent. It is not a fit case for adopting multiplier method. There is no functional disability to the injured. Hence the disability sustained by the injured would no way affect his future earning capacity and awarding a compensation of a sum of Rs.1,59,315/- is highly excessive and unsustainable.

6. This Court heard the submissions of the learned counsel for the appellant and perused the materials available on record.

7. Even though the Doctor has assessed the disability of the claimant at 45%, the Tribunal has fixed at 15% and arrived at the compensation of Rs.1,26,000/-, adopting the multiplier, which may not be correct. But by arriving at the compensation for 45% disability at Rs.3,000/- for one disability, the compensation would work out much more than Rs.1,26,000/-.

8. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The appellant Transport Corporation is directed to deposit the entire award amount, together with interest, to the credit of M.C.O.P.No.2254 of 2012, on the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge), Cuddalore, if not already deposited, within a period of eight weeks, from the date of receipt of a copy of this order and on such deposit being made, the claimant is entitled to withdraw the same, on filing necessary application before the

Tribunal. There will be no order as to costs in this appeal. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mvs.

To

The Motor Accident Claims Tribunal,
Principal Subordinate Judge,
Cuddalore.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.24429

VGI(CO)
CA(03/06/2016)