

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2016

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.869 of 2016

and

C.M.P.No.7024 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
Villupuram, Villupuram Limited
Vellore. ... Appellant/Respondent

vs.

Perumal ...Respondent/petitioner

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 24.06.2014 passed in M.C.O.P.No.95 of 2013 on the file of the Motor Accidents Claims Tribunal, Sub Judge, Vaniyambadi.

For Appellant : Mr.J.Sivakumar

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the Judgment and decree dated 24.06.2014 passed in M.C.O.P.No.95 of 2013 on the file of the Motor Accidents Claims Tribunal, Sub Judge, Vaniyambadi.

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

3. In an accident that took place on 27.02.2013, the claimant who was working as a Bore Well Mechanic sustained injury on the left leg which was crushed and there was fracture on right shoulder when the Transport Corporation Bus dashed against the motorcycle of the claimant while he was proceeding towards Natrampalli along with a pillion driver, due to the rash and negligent driving of the driver of the bus. Claiming compensation to the tune of Rs.20,00,000/-, the claimant approached the Tribunal. The Tribunal, based on the oral and documentary evidence, awarded a sum of Rs.7,97,244/- as

compensation to the claimant. Aggrieved over the same, the Transport Corporation is before this Court.

4. A glance at the award would reveal that the doctor assessed 70% disability as per Ex.P.2. The claimant initially got treatment at Vaniyambadi Government Hospital and thereafter in CMC Vellore. Even though the income was claimed at Rs.10,000/- per month, the Tribunal fixed the income at Rs.4,500/- and adopting multiplier 15, arrived at a compensation of a sum of Rs.5,67,000/- for the loss of income. Apart from that the Tribunal has awarded Rs.140,000/- for disability; Rs.20,000/- towards pain and suffering, Rs.4,000/- for transportation; Rs.51,244/- for medical bills; Rs.5000/- for attendant charges and a sum of Rs.10,000/- for extra nourishment.

5. The points raised by the appellant with regard to the quantum of compensation awarded to the injured claimant is that the Tribunal ought not to have adopted the multiplier method and the Tribunal cannot pass an award on the head of disability while passing the award under the head of loss of earning capacity. Hence, according to the appellant on these grounds the award has got to be interfered with.

6. The contention of the appellant that the multiplier method adopted is erroneous cannot be accepted for the reason that the claimant's left leg above the knee has been amputated due to the injury sustained in the accident. As regards the contention that the Tribunal has awarded under both the heads viz., disability and loss of earning capacity and the same may not be maintainable and therefore, one head has got to be deleted, it is seen that the Tribunal has awarded only a meager amount under the head pain and suffering and no compensation has been granted for the loss of amenities. In view of this, I find no reason to interfere with the award of the Tribunal.

7. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The rate of interest granted by the Tribunal is also confirmed.

8. 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 to the credit of M.C.O.P.No.95 of 2013 on the file of the Motor Accident Claims Tribunal, Sub Judge, Vaniyambadi, if not already deposited, within a period of six 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. There will be no order as to costs in this appeal. Connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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To
The Motor Accidents Claims Tribunal
Sub Judge, Vaniyambadi,

+1 cc to Mr.K.J.Sivakumar Advocate sr.24426/16

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