

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2016

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THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.947 of 2016

&

C.M.P. No. 7332 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
No.3/137, Salamedu,
Vazhuthareddy,
Villupuram-605 602.

..Appellant/Respondent

Vs.

R.Ashokan

..Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal as against the order and decreetal order dated 21.12.2013 made in M.C.O.P. No.2128 of 2012 on the file of Motor Accidents Claims Tribunal, Principal Subordinate Judge at Cuddalore.

For Appellant :: Mr.K.J.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the order and decreetal dated 21.12.2013 made in M.C.O.P. No.2128 of 2012 on the file of Motor Accidents Claims Tribunal, Principal Subordinate Judge, Cuddalore.

2. In an accident that took place on 08.05.2005, a 56 year old working as Commission Agent (self employed) by name R.Ashokan sustained grievous injuries and multiple fractures all over the body and head, had approached the Tribunal claiming compensation to the tune of Rs.5,00,000/-.

3. 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:-

Sl.No	Head	Amount granted by the Tribunal
1	Permanent disability	Rs.97,200/-
2	Pain and sufferings	Rs.15,000/-
3	Medical expenses	Rs.21,714/-
4	Transportation charges	Rs. 5,000/-
5	Extra Nourishment	Rs. 3,000/-
6	Loss of income during treatment period	Rs. 9,000/-
	Total	Rs.1,50,914/-

4. Aggrieved over the said award, the Transport Corporation has come forward with this Civil Miscellaneous Appeal.

5. The main contention of the learned counsel for the appellant/Corporation is that the Tribunal ought not to have considered the evidence of PW1 and his evidence is not corroborated with any other independent witness. He strenuously contended that though the alleged accident has occurred in the year 2005, the FIR has been registered only after seven years which is against law and the Tribunal ought not have taken the permanent disability at 20% as the same is on the higher side. Hence, he prayed for interference of this Court and in any event, according to him, the compensation should be reduced.

6. A glance of the award of the Tribunal would make it clear that the pursuant to the accident that took place on 08.05.2005, the injured sustained grievous injury and was taken to Government Hospital, Cuddalore, where he was treated as inpatient between 08.05.2005 and 13.05.2005 and thereafter, he was taking treatment at Krishna Hospital, Cuddalore and still he is undergoing treatment in private hospitals. The Tribunal, taking note of the injuries sustained viz., grievous injuries and multiple fracture all over the body as evident from the evidence of P.W.2 Doctor, has assessed the disability at 60%. But the Tribunal has fixed only 20% and fixed the monthly income of Rs.4,500/ and by applying multiplier '9' had granted the loss of income, viz., Rs.97,200/-. It is pertinent to note that the appellant Transport Corporation has not examined the driver of the bus before the Tribunal and the negligence was proved

against the driver of the bus before the Tribunal. 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.

7. 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.2128 of 2012 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Cuddalore, 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.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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

+1 cc to M/s.K.J.Sivakumar Advocate sr.25700/16

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