

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.948 of 2016

&

C.M.P. No. 7333 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation (Trichy Region)
Railway Station Road,
Periya Melakuparai, Trichy. ..Appellant/Respondent

Vs.

Thirumurthy ..Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 as against the order and decretal order dated 26.09.2013 made in M.C.O.P. No.44 of 2011 on the file of Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Namakkal.

For Appellant :: Mr.D.Venkatachalam

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the order and decretal order dated 26.09.2013 made in M.C.O.P. No.44 of 2011 on the file of Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Namakkal.

2. In an accident that took place on 05.02.2010, a 52 year old, working as a daily wager, by name Thirumurthy, who sustained grievous injuries and multiple fractures all over the body had approached the Tribunal claiming compensation to the tune of Rs.8,00,000/-.

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. 70,000/-
2	Pain and sufferings	Rs. 50,000/-
3	Medical expenses	Rs. 76,758/-
4	Attender charges	Rs. 10,000/-
5	Extra Nourishment	Rs. 10,000/-
6	Transportation charges	Rs. 5,000/-
7	Loss of income (Rs.4500 x3)	Rs. 13,500/-
8	Loss of amenities	Rs. 15,000/-
	Total	Rs.2,50,258/-

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 has not been corroborated by any other independent witness. He further contended that the accident was occurred only by the rider of the motorcycle, who was under influence of alcohol and not the driver of the bus. He strenuously contended that the Tribunal has fixed the permanent disability at 35%, which appears to be on the higher side. Though the injury sustained by the claimant was simple in nature, the compensation granted under the head 'pain and suffering' is excessive. 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 pursuant to the accident that took place on 05.02.2010, the injured sustained grievous injury and multiple fractures and was taken to Karur Abishek Hospital for first-aid and thereafter, he was admitted in C.M. Hospital, Namakkal, for further treatment, where he was treated as inpatient for 20 days. The Tribunal, taking note of the injuries sustained viz., grievous injuries and multiple fractures all over the body as evident from the evidence of P.W.2 Doctor, who has assessed the disability at 45%. But, the Tribunal has reduced the disability to 35% without expressing any reason and awarded only Rs.2,000/- per percentage of disability. In view of the decision of this Court in KUPPUSAMY V. M. THIRUMAL & OTHERS reported in CDJ 2015 MHC 2735, the Tribunal could have awarded Rs,3,000/- per percentage of disability and hence, the contention raised by the learned counsel for the appellant cannot be accepted and the Tribunal was right in fixing the disability at 35% and that the Tribunal has granted Rs.2,000/- per percentage of disability and had arrived at compensation under the head 'permanent disability' at Rs.70,000/-, which cannot be excessive. For the sake of argument, the compensation granted under the head 'pain and suffering' is more, a meagre compensation has been granted under the head 'attendant charges', more particularly, the injured was admitted in the hospital for

nearly 20 days for treatment. 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.44 of 2011 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Namakkal, 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.

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/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

The Chief Judicial Magistrate, ,
Motor Accidents Claims Tribunal,
Namakkal.

+1 cc to Mr.D.Venkatachalam, advocate,sr.25595.

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