

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.949 of 2016

&

C.M.P. No.7334 of 2016

The Branch Manager,
Tamil Nadu State Transport Corporation,
Perambalur Depot,
Perambalur.

... Appellant/Respondent

Vs.

Karthick

... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the order and decreetal order dated 30.01.2015 made in M.C.O.P. No.227 of 2012 on the file of Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Perambalur.

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 decreetal dated 30.01.2015 made in M.C.O.P. No.227 of 2012 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Perambalur.

2.On 28.04.2012 at about 4.30 pm., when the respondent/claimant was riding his vehicle bearing Reg. No.TN 46-L-1765 Star City two wheeler near Vengalam Village (in front of the bridge), the appellant's bus bearing Reg.No.TN 45 N 2812 came from the opposite direction in a rash and negligent manner and dashed against the respondent's vehicle, due to which, the respondent sustained multiple fractures. Immediately, the respondent/claimant was admitted in Government Hospital, Perambalur and thereafter, admitted in Private Hospital, Sankari, where he was treated as inpatient for 15 days.

Claiming compensation to the tune of Rs.10,00,000/-, the claimant approached the Tribunal. The Tribunal, based on the oral and documentary evidence, awarded a sum of Rs.1,95,039/- as compensation to the claimant. Aggrieved over the same, the Transport Corporation is before this Court.

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	Pain and Sufferings	Rs. 15,000/-
2	Extra nourishment and Transportation	Rs. 5,000/-
3	Disability at 32% (Rs.4,000 x 32)	Rs. 1,28,000/-
4	Loss of income during treatment period (Rs.4,000 x 4)	Rs. 16,000/-
5	Medical Expenses	Rs. 31,039/-
	Total	Rs. 1,95,039/-

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 is erred in awarding compensation towards permanent disability at 32% and further the compensation awarded under other heads are on the higher side and hence the learned counsel 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 28.04.2012, the injured was taken to G.H. Perambalur from the place of incident and then to Private Hospital, Sankari, where he was treated as an inpatient for a period of 15 days. The Tribunal, taking note of the injuries sustained as evident from the evidence of P.W.2 Doctor, who has assessed the disability at 32%, fixing a sum of Rs.4,000/- per percentage of disability, awarded a sum of Rs.1,28,000/- under the head Permanent disability, though the Division Bench of this Court in the case of New India Assurance Co. Limited vs. V.Kannayiram, reported in 2012(1) TN MAC 611 has granted Rs.3,000/- per percentage of disability. Even assuming for a moment that the award of compensation towards disability granted by the Tribunal is on the higher side for the sake of argument, certainly, the compensation towards pain and sufferings and for extra nourishment are very meagre. 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.227 of 2012 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Perambalur, 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/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

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

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.25594

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