

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.952 of 2016

&

C.M.P. No.7337 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Villupuram.

..Appellant/Respondent

Vs.

Balakrishnan

..Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal as against the order and decreetal order dated 13.08.2014 made in M.C.O.P. No.1389 of 2009 on the file of Motor Accident Claims Tribunal, Special Subordinate Judge, 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 order dated 13.08.2014 made in M.C.O.P. No.1389 of 2009 on the file of Motor Accidents Claims Tribunal, Special Subordinate Judge, Cuddalore.

2. In an accident that took place on 26.10.2008, a 49 year old person working as a Labourer by name Balakrishnan, who sustained fracture in both bones in right leg, Fracture in right hand and multiple and grievous injuries all over the body had approached the Tribunal claiming compensation to the tune of Rs.10,00,000/-.

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	Disability at 65%	Rs.1,30,000/-
2	Pain and Suffering	Rs. 32,500/-
3	Transport	Rs. 10,000/-
4	Extra Nourishment	Rs. 20,000/-
5	Medical Bills	Rs.1,09,465/-
6	Future Medical expenses	Rs. 20,000/-
7	Loss of enjoyment	Rs. 15,000/-
	Total	Rs.3,36,965/-

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

5. The twin contention of the learned counsel for the appellant/Corporation is that the Tribunal has erred in awarding compensation towards permanent disability at 65%, which is on the higher side and further contended that the Tribunal has awarded a sum of Rs.20,000/- towards future medical expenses which is also on the higher side. Hence, the learned counsel for the appellant 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 26.10.2008, the injured was taken to G.H. Virudhachalam from the place of incident and then to Pondicherry Institute of Medical Sciences, Puducherry, where he was treated as in-patient and he is taking treatment in various private hospitals till date. The Tribunal, taking note of the injuries sustained viz., fracture in both bone right leg as evident from the evidence of P.W.2 Doctor, who has assessed the disability at 65%, fixing only a sum of Rs.1,000/- per percentage of disability, awarded a sum of Rs.65,000/- under the head Permanent disability. A 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. By applying the said judgment, the claimant would be entitled for much more compensation. 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.1389 of 2009 on the file of the Motor Accidents Claims Tribunal, Special 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.

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s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

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

Copy to : The Section Officer,
V.R.Section,
High Court, Madras.

+ 1 cc to Mr.KJ.Sivakumar, Advocate SR 25704

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