

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.988 of 2016

and

C.M.P.No.7544 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
Kumbakonam Railway Station New Road,
Kumbakonam Taluk. ... Appellant/Respondent

vs.

Tamilarasi ...Respondent/Petitioner

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the order and decreetal order dated 17.12.2012 passed in M.C.O.P.No.182 of 2011 on the file of the Motor Accidents Claims Tribunal, District and Sessions Judge, Thiruvarur.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the order and decreetal order dated 17.12.2012 passed in M.C.O.P.No.182 of 2011 on the file of the Motor Accidents Claims Tribunal, District and Sessions Judge, Thiruvarur.

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

3. In an accident that took place on 18.11.2009, the claimant who is aged about 30 years, doing agricultural/tailoring work, by name Tamilarasi, sustained grievous injuries had approached the Tribunal claiming compensation to the tune of Rs.8,00,000/-.

4. 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	Loss of Income (Rs.100 x 30)	Rs. 3,000/-
2	Transportation charges	Rs. 7,900/-
3	Extra Nourishment	Rs. 5,000/-
4	Medical Expenses	Rs. 63,481/-
5	Pain and Sufferings	Rs. 20,000/-
6	Loss of enjoyment and amenities of life	Rs. 20,000/-
7	Permanent Disability at 24%	Rs. 48,000/-
	Total	Rs.1,67,381/-

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

6. The main contention of the learned counsel for the appellant/Corporation is that the Tribunal erred in awarding compensation towards permanent disability at Rs.48,000/- by applying multiplier method and further, the Tribunal has wrongly awarded the compensation of Rs.20,000/- under the head 'loss of amenities of life'. Hence, the learned counsel prayed for interference of this Court and in any event, according to him, the compensation should be reduced.

7. A glance of the award of the Tribunal would make it clear that pursuant to the accident that took place on 18.11.2009, the injured was taken to Mayiladuthurai Neelalkrishnan Hospital for first aid and thereafter, she took treatment in Thanjavur Vinothagan Hospital from 11.11.2010 to 03.12.2010, 10.12.2010 to 17.12.2010 and 29.12.2010 to 04.01.2011. The Tribunal, taking note of the grievous injuries sustained as evident from the evidence of P.W.2 Doctor, who has assessed the disability at 24% and fixing a sum of Rs.2,000/- per percentage of disability, awarded a sum of Rs.48,000/- under the head Permanent disability. 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. By applying the said judgment, the claimant would be entitled for much more compensation. Even assuming for a moment that the percentage of disability fixed by the Tribunal is on the higher side, for the sake of argument, certainly, the compensation towards extra nourishment awarded is very meagre. The learned counsel for the appellant would submit that the loss of enjoyment and amenities of life would not be applicable to the facts of the present case. Though it appears that the compensation awarded under the head 'loss of enjoyment and amenities of life' would not attract to the facts of the case, the Tribunal has failed to grant compensation under the head 'attendant charges'. If compensation has to be granted towards 'attendant charges', the compensation awarded under the head 'loss of enjoyment and amenities of life' would be deleted. Therefore, 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.

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.182 of 2011 on the file of the Motor Accidents Claims Tribunal, District and Sessions Judge, Thiruvavarur, 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.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

1.The District and Sessions Judge
Motor Accidents Claims Tribunal,
Thiruvavarur.

2.The Section Officer,
V.R.Section, High Court, Madras.

Copy to:
The Managing Director
Tamil Nadu State Transport Corporation
Kumbakonam Railway Station New Road,
Kumbakonam Taluk.

+1 cc to M/s.D.Venkatachalam, Advocate,sr.25794.

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krd 22/7

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