

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.04.2016

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THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

C.M.A.No.991 of 2016
and C.M.P.No.7557 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation (Salem) Limited,
Regional Office,
Bharathipuram,
Dharmapuri-5. Appellant

Vs.

Nazeerkhan Respondent

Civil Miscellaneous Appeal preferred against the fair and decreetal order dated 02.01.2012 made in M.C.O.P.No.273 of 2010 on the file of the learned Motor Accident Claims Tribunal, [Fast Track Court], Dharmapuri.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the appellant/Transport Corporation as against the fair and decreetal order dated 02.01.2012 made in M.C.O.P.No.273 of 2010 on the file of Motor Accidents Claims Tribunal [Fast Track Court], Dharmapuri.

2. On 29.12.2009 at 12.10 a.m., when the respondent/claimant was travelling in the appellant's bus bearing Registration No.TN-29-N-2038 proceeding towards Dharmapuri near Puliyur Madhan residence Thiruppathur-Dharmapuri Road, due to rash and negligent driving of the driver of the bus, the bus was capsized, due to which, the respondent/claimant along with other persons sustained multiple injuries. Claiming compensation to the tune of Rs.8,20,500/-, (restricted to Rs.5,00,000/-), the respondent/claimant approached the Tribunal by filing M.C.O.P.No.273 of 2010.

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 30%	Rs. 60,000/-
2	Pain and suffering	Rs. 40,000/-
3	Loss of Earnings	Rs. 30,000/-
4	Transportation and Extra Nourishment	Rs. 10,000/-
5	Medical Expenses	Rs. 3,493/-
	Total	Rs.1,43,493/-

Aggrieved over the said award, the Appellant Transport Corporation has come forward with this appeal.

4. Heard the learned counsel for the appellant and perused the materials placed before this Court.

5. In an accident which took place on 29.12.2009, a 51 year old man, who is doing as Sheep and Goat skin business, sustained fracture over the right thigh, injury over the right eye, right shoulder and right knee and contusion and also multiple injuries all over the body. Immediately, he was admitted in Pochampalli Government Hospital for first-aid and thereafter, admitted in Government Hospital, Dharmapuri, where he took treatment as inpatient for a period of five years and thereafter he was admitted in Omsakthi Private Hospital where he had undergone surgery in his right thigh and he is still taking treatment in various private hospitals. The Doctor who examined him, assessed the disability at 30%. The Tribunal, after considering the evidence on record, more particularly the evidence of P.W.2 - Doctor and scrutinizing all the exhibits viz., Exs.P1 to P7, awarded a sum of Rs.1,43,493/- as compensation to the respondent/claimant, which according to the appellant/Appellant Transport Corporation, is excessive.

6. Admittedly, the injured was treated in Government Hospital, Pochampalli and admitted for taking treatment as inpatient for five days in Government Hospital, Dharmapuri. Taking note of the above, the Tribunal has granted the compensation on various heads. Learned counsel for the appellant vehemently contended that the Tribunal ought not to have awarded the compensation under the head 'loss of earning' which appears to be on the higher side. Though it appears to be on the higher side, considering the fact that the Tribunal has failed to grant the compensation under the head 'attendant charges' and 'loss of future earnings' during the treatment period, this Court finds

that the Tribunal has omitted the aforesaid heads mentioned supra. This Court feels that the claimant would be entitled to the compensation for the aforesaid two heads. Even if the loss of income appears to be on the higher side, this Court feels that the said amount would compensate the aforesaid two heads. This Court is also of the view that all other amounts granted by the Tribunal under all other heads are reasonable. That apart, the percentage of interest granted by the Tribunal is also confirmed.

7. The Appellant/Transport Corporation is directed to deposit the entire award amount granted by the Tribunal together with proportionate interest @ 7.5% per annum from the date of claim petition and costs, to the credit of M.C.O.P.No.273 of 2010 on the file of the Motor Accidents Claims Tribunal, Fast Track Court, Dharmapuri, if not already deposited within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the respondent/ claimant is entitled to make necessary application to withdraw the same. The Civil Miscellaneous Appeal is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Additional District Judge, (FTC)
Motor Accidents Claims Tribunal,
Dharmapuri.

+lcc to Mr.D. Venkatachalam, Advocate, S.R.No.26019

BVR(CO)
EU(19/09/2016)

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