

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.994 of 2016

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C.M.P. No.7559 of 2016

Tamil Nadu State Transport Corporation Limited,
Kumbakonam represented by its Managing Director,
Having its office at Kumbakonam Town & District.

... Appellant/Respondent

Vs.

Lakshmi

... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal as against the order and decreetal order dated 18.01.2013 made in M.C.O.P. No.122 of 2012 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Nagapattinam.

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 18.01.2013 made in M.C.O.P. No.122 of 2012 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Nagapattinam.

2. On 05.11.2007 at about 11.00 a.m., when the respondent/claimant along with other persons were travelling in the appellant's bus bearing Reg. No.TN 49-N-0852 proceeding from Nagapattinam, the driver of the appellant's bus drove in a rash and negligent manner and lost his control, due to which, the respondent/claimant and others sustained injuries. Immediately, the respondent/claimant and others were taken to Nagapattinam Government Hospital for treatment as inpatient for period of five days i.e. from 05.11.2007 to 09.11.2007 and thereafter they took further treatment in private hospitals and still they are taking treatment in the private hospitals. Claiming compensation to the tune of Rs.3,00,000/-, the claimant approached the

Tribunal. The Tribunal, based on the oral and documentary evidence, awarded a sum of Rs.1,09,500/- 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	Future loss of income	Rs. 67,500/-
2	Loss of income (Rs.3000 x 3)	Rs. 9,000/-
3	Transportation	Rs. 5,000/-
4	Extra nourishment	Rs. 5,000/-
5	Cost of attender	Rs. 3,000/-
6	Medical Expenses	Rs. 5,000/-
7	Pain and Suffering	Rs. 15,000/-
	Total	Rs. 1,09,500/-

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 erroneously awarded the compensation at Rs.67,500/- towards future loss of income by adopting multiplier method 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 pursuant to the accident that took place on 05.11.2007, the injured was taken to Government Hospital, Nagapattinam from the place of incident, where he was treated as an inpatient for a period of 5 days. The Tribunal, taking note of the injuries, i.e. dislocation and compression of L4 and L5 disk bulge injury and injury over the neck, sustained as evident from the evidence of P.W.7 Doctor, who has assessed the disability at 25% and adopting multiplier '15', arrived at Rs.67,500/- as Future loss of income which cannot be said to be excessive. Taking note of the injuries sustained by the respondent/claimant, the Tribunal has awarded compensation by adopting multiplier for calculation of Future loss of income and that the multiplier should not have been adopted even though it appears to be on the higher side, the compensation awarded for

loss of income is very meagre and if granting Rs.3,000/- per percentage of disability based on the decision of Division Bench of this Court New India Assurance Co. Limited vs. V.Kannayiram, reported in 2012(1) TN MAC 611, it may come around much more than of Rs.67,500/-. Taking note of the fact that the respondent /claimant sustained L4 and L5 disk injury and admitted as inpatient from 05.11.2007 to 09.11.2007 and considering the injuries sustained by the respondent/claimant, the amount awarded under the conventional heads are very reasonable and the same are hereby confirmed. Hence, this Court finds no reason to interfere with the compensation awarded by the Tribunal and 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 interest @ 7.5% per annum from the date of claim petition and costs to the credit of M.C.O.P.No.122 of 2012 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Nagapattinam, 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/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

The Chief Judicial Magistrate Court,
Motor Accidents Claims Tribunal,
Nagapattinam.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.26020

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