

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2016

C O R A M

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.3660 of 2014
and M.P.No.1 of 2014

The Managing Director
Tamil Nadu State Transport Corporation
Vizhupura Division II Ltd.,
Vellore-09 ...Appellant/ 1st Respondent

Vs

1.N.Murugan
2.R.Buganesh Kumar
3.The United India Insurance Co.,Ltd.,
Rep. By its Divisional Manager, No.81,
Katpadi Road
TKM Complex, Vellore. ... Respondents/ Petitioner/
2nd and 3rd Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1989, against the order and decree passed by the Motor Accidents Claims Tribunal, Vellore [Court of Chief Judicial Magistrate, Vellore] in M.C.O.P.No.610/2012 dated 24.06.2014.

For appellant ... Mr.P.Paramasivadosh

For respondent ... Mr.SP.Yuvaraj for R1
No appearance for R2 and R3.

सत्यमेव जयते
JUDGMENT

(Judgment of the Court was delivered by R.SUDHAKAR, J.)

The Transport Corporation is on appeal challenging the award dated 24.06.2014 passed in M.C.O.P.No.610 of 2012 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Vellore.

2. Heard the learned counsel for the appellant and the learned counsel for the first respondent.

3. It is a case of injury. The injured victim, who was a Head Mason, aged 39 years, while travelling as pillion rider in a two-

wheeler bearing Reg.No.TN-23-BV-0487 with his friend on 01.07.2012 at about 16.00 hours, the driver of the bus bearing Reg.No.TN-23-N-1975 belonging to the appellant Transport Corporation came in a rash and negligent manner and hit and run over on the legs of the injured victim viz., N.Murugan and as a result, he sustained permanent disability. The injured-N.Murugan, filed a claim for compensation for a sum of Rs.25,00,000/-. According to the claimant, he was not able to do his normal avocation of work due to the permanent disability sustained by him.

4. Before the Tribunal, the injured claimant, was examined as P.W.1 and one Dr.Shanmugasundaram was examined as P.W.2. Exs.P.1 to P.10 were marked, the details of which are as follows:-

Ex.P.1/01.07.2012	Certified xerox copy of F.I.R
Ex.P.2	Certified xerox copy of wound certificate
Ex.P.3	Certified xerox copy of MVI report (Bus)
Ex.P.4	Certified xerox copy of MVI report two wheeler
Ex.P.5	Certified xerox copy of charge sheet
Ex.P.6	C.M.C.Discharge summary
Ex.P.7	Photo with CD
Ex.P.8	Medical bills
Ex.P.9	Xerox copy of Insurance Policy
Ex.P.10/15.03.2014	Disability Certificate

On the side of the appellant/first respondent, the driver of the appellant/transport Corporation was examined as R.W.1. One Loganathan was examined as R.W.2. Copy of investigation report was marked as Ex.R.1.

5. The Tribunal, based on the evidence let in by the injured claimant, pointed out that there is every possibility of the injured claimant earned Rs.12,000/- per month and thereby granted the compensation as under:-

Sl.No.	Head	Amount
1	For loss of income $12,000 \times 12 \times 15 \times 70/100 = 15,12,000$	15,12,000-00
2	For pain and sufferings	1,40,000-00
3	For transportation	10,000-00
4	For extra nourishment	50,000-00
5	For damages to cloth & articles	500-00
6	For medical expenses (Ex.P.8 -Medical bills)	22,266-00

Sl.No.	Head	Amount
	Total	17,34,766-00

6. The finding of negligence on the part of the driver of the appellant transport corporation bus, who is responsible for the accident and consequential liability fixed on the appellant transport corporation to compensate the claimant, is not seriously disputed and such finding is confirmed. The appeal is canvassed mainly challenging the quantum of compensation.

7. Taking note of the date of the accident that is 01.07.2012, we find that the loss of income for the Head Mason arrived at by the Tribunal by calculating Rs.400/- per day did not appear to be excessive. In any event, the Tribunal has not granted any compensation towards future medical expenses for the injured claimant. The claimant suffered above knee amputation left lower limb. The Apex Court, in the decision reported in 2003 ACJ 12 (3 Judges) (Nagappa - vs. - Gurudayal Singh and others), in paragraph 23, held as under:-

"M.V. Act does not provide for passing of further award after final award is passed Only alternative is that at the time of passing of final award, Tribunal/Court should consider such eventuality and fix compensation accordingly. No one can suggest that it is improper to take into account expenditure genuinely and reasonably required to be incurred for future medical expenses. Future medical expenses required to be incurred can be determined only on the basis of fair guesswork after taking into account increase in the cost of medical treatment."

8. In view of the above, when sufficient compensation towards future medical expenses itself has not been granted to the claimant/1st respondent, we find no reason to interfere with the quantum of compensation awarded. Accordingly, this Civil Miscellaneous Appeal is dismissed. As per order dated 29.01.2015 passed in M.P.No.1 of 2014, the appellant was directed to deposit entire award amount. The claimant is permitted to withdraw the award amount with interest and costs. There will no order as to costs. Consequently, connected MP is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

nvsri

To

1. The Chief Judicial Magistrate
The Motor Accidents Claims Tribunal,
Vellore

Copy to

The Section Officer
VR Section
High Court, Madras

1 cc to Mr.P. Paramasivadosh, Advocate, Sr. 11584
1 cc to Mr.S.P. Yuvaraj, Advocate, Sr. 11155

C.M.A.No.3660 of 2014

KK (CO)
kk 24/3



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