

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2016

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.432 of 2014

and

M.P.No.1 of 2014

The General Manager,
Tamil Nadu State Transport Corporation Limited,
Kumbakonam Division-II,
Periyamilaguparai,
Trichirapalli-I. ... Appellant/Respondent

vs.

Saroja ... Respondent/Petitioner

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the order and decreetal order dated 29.08.2013 made in M.C.O.P.No.322 of 2012 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Perambalur.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the order and decreetal order dated 29.08.2013 made in M.C.O.P.No.322 of 2012 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Perambalur.

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

3. On 15.06.2012, when the respondent/claimant was travelling as a passenger in the appellant's bus bearing Reg.No.TN 32 N 2976 proceeding towards Thandalai, she fell down from the front foot board upside down on the road and bus ran over her left leg, and she sustained multiple grievous injuries all over the body due to rash and negligent driving of the driver of the bus. Immediately, the respondent/claimant was taken to Musiri Government Hospital for first aid and then was admitted in Trichy Government Hospital as inpatient from

15.06.2012 to 12.08.2012 and underwent major operation and her left leg below knee was amputated. Claiming compensation to the tune of Rs.10,00,000/-, the claimant approached the Tribunal. The Tribunal, based on the oral and documentary evidence, awarded a sum of Rs.5,16,800/- as compensation to the claimant. Aggrieved over the same, the Transport Corporation is before this Court.

4. A glance at the award would reveal that the doctor-PW2 assessed 80% permanent disability as per Ex.P.3. The claimant initially got treatment at Musiri Government Hospital and thereafter in Government Hospital, Trichy. Even though the income was claimed at Rs.6,000/- per month, the Tribunal fixed the income at Rs.3,000/- and adopting multiplier 11, arrived at a compensation under the head 'loss of earning capacity' at Rs.3,16,800/- and awarded a sum of Rs.80,000/- under the head 'permanent disability at 80%' and a sum of Rs.18,000/- under the head 'loss of income' during the period of taking treatment as inpatient. Apart from that, the Tribunal has awarded Rs.10,000/- towards transportation, Rs.10,000/- towards medical expenses, Rs.30,000/- for future medical expenses; Rs.22,000/- for attendant charges, Rs.25,000/- and Rs.5,000/- for pain and suffering and for extra nourishment respectively.

5. The points raised by the appellant with regard to the quantum of compensation awarded to the injured claimant is that the Tribunal ought not to have adopted the multiplier method for calculation of the head 'loss of earning capacity' and the Tribunal cannot pass an award on the head of disability, while passing the award under the head 'loss of earning capacity'. Hence, according to the appellant, on these grounds the award has got to be interfered with.

6. The contention of the appellant that the multiplier method adopted is erroneous cannot be accepted for the reason that the claimant's left leg above the knee has been amputated due to the injury sustained in the accident. As regards the contention that the Tribunal has awarded under both the heads viz., disability and loss of earning capacity, the same may not be maintainable and therefore, one head has got to be deleted, the Tribunal has awarded only a meager amount under the head pain and suffering and extra nourishment. In view of this, I find no reason to interfere with the award of the Tribunal.

7. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The rate of interest granted by the Tribunal is also confirmed.

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.322 of 2012 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Perambalur, 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. There will be no order as to costs in this appeal. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CSIII)

True Copy

Sub-Assistant Registrar

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To

The Motor Accidents Claims Tribunal
Subordinate Judge,
Perambalur.

+1 cc to Mr.Venkatachalam Advocate sr.25531

C.M.A.No.432 of 2016 &
M.P.No.1 of 2016

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