

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.2014 of 2013

and

M.P. No. 1 of 2013

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
No.12, Ramakrishna Road,
Salem - 7.

... Appellant/2nd Respondent

Vs.

1. K. R. Raju

2. K. Semban

... Respondents/Petitioner
and 1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 06.07.2012 made in M.C.O.P No.64 of 2010 on the file of the Motor Accident Claims Tribunal, Additional District Judge -IV, Bhavani.

For Appellant : Mr. D.Venkatachalam
For Respondent : Mr. Ma.Pa. Thangavel for R1
R2 - set exparte

J U D G M E N T

सत्यमेव जयते

The Transport Corporation has come up with this appeal challenging the quantum of compensation awarded by the Tribunal.

2. In an accident which occurred on 15.08.2009, whereby the appellant Transport Corporation bus dashed against the two wheeler of the respondent claimant, on the Bhavani Mettur Main Road, near the Moonroad bus stop, the claimant sustained multiple fractures on his rib, right leg and in the collar bone and also multiple injuries all over his body. Hence, he filed a Claim Petition before the Tribunal seeking a sum of Rs.6,00,000/- as compensation. After analyzing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.3,64,135/- as compensation, under the following heads:

Heads	Amount
Permanent Disability	Rs.3,24,000.00
Pain and Sufferings	Rs. 10,000.00
Extra Nourishment	Rs. 10,000.00
Transportation	Rs. 2,000.00
Medical Expenses	Rs. 18,135.00
Total	Rs.3,64,135.00

3. Learned counsel appearing for the appellant/Transport Corporation would mainly contend that the quantum of compensation awarded by the Tribunal is too high when the Doctor has wrongly fixed the disability at 58% . He would further contend that the Tribunal ought not have adopted multiplier method to calculate the loss of future earnings since the disability sustained by him would not affect the profession of the injured. Further there is no valid document to prove his age and income.

4. On the other hand, learned counsel appearing for the respondent/claimant would submit that this is a fit case for application of multiplier method as the claimant had sustained multiple fractures on his collar bone, right leg etc. and due to mal-union of ribs and the bone on the right leg, he is unable to breath properly or stand for a long time, which would certainly have an impact in his avocation, as he is working as an electrician. He had also undergone a major surgery on the abdomen and hence the Tribunal has accepted 40% permanent disability. Therefore, the claimant sought for dismissal of the Appeal.

5. A perusal of the records would show that the injured claimant was aged 48 years and was working as an electrician at the time of accident. Moreover, he has taken treatment in four hospitals, has undergone a major surgery in the abdomen and was under treatment as an inpatient from 05.09.2009 to 29.09.2009, in AKPM Hospital, Anthiyur. The Tribunal has rightly adopted the multiplier '15' considering his age and profession. Hence, this Court is not inclined to interfere with the compensation awarded by the Tribunal towards "loss of income". Taking note of the injuries sustained by claimant and the period of treatment undergone by the claimant, the compensation awarded under other heads is also confirmed. Hence, this Court finds that the quantum of compensation is not excessive and hence the same is confirmed.

6. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. The appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest, less the

amount already deposited, if any, to the credit of M.C.O.P.No.64 of 2010 on the file of the Motor Accidents Claims Tribunal, Additional District Judge-IV, Bhavani, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimant in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company. No costs. Consequently, connected M.P.No.1 of 2013 is also closed.

Sd/-
Assistant Registrar(VI)

//True Copy//

Sub Assistant Registrar

avr

To

The Additional District Judge-IV,
Motor Accidents Claims Tribunal,
Bhavani.

+1cc to Mr.D. Venkatachalam, Advocate, S.R.No.15565
+1cc to Mr.Ma.P. Thangavel, Advocate, S.R.No.15810

SVI(CO)
EU(14/06/2016)

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