

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.3271 of 2013

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M.P. No. 1 of 2013

Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam, rep. by its Managing
Director, having its registered office at
Railway Station New Road,
Kumbakonam and District
Munsif ..Appellant/1st Respondent

Vs.

1. John Babu ..1st Respondent/Petitioner
2. Ganesan ..2nd Respondent/2nd Respondent

Prayer: Civil Miscellaneous Appeal as against the Judgment and
decree dated 15.05.2013 made in M.C.O.P. No. 33 of 2013 on the
file of Motor Accidents 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 judgment and decree dated
15.05.2013 made in M.C.O.P. No. 33 of 2013 on the file of Motor
Accidents Claims Tribunal, Chief Judicial Magistrate Court,
Nagapattinam.

2. In an accident that took place on 09.11.2010, a
40 year old Programme Manager in Jopworldwide Trust by name John
Babu, who sustained communitied fracture on both bone right leg
had approached the Tribunal claiming compensation to the tune of
Rs.20,00,000/-.

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	Loss of salary	Rs.11,370/-
2	Transportation	Rs.36,800/-
3	Cost of attender	Rs.10,000/-
4	Pain and Sufferings	Rs.40,000/-
5	Extra Nourishment	Rs.10,000/-
6	Medical Expenses	Rs.1,45,500/-
7	Permanent Disability	Rs.84,000/-
	Total	Rs.3,37,670/-

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 is erred in awarding compensation towards permanent disability at 42% 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 the pursuant to the accident that took place on 09.11.2010, the injured was taken to G.H. Nagapattinam from the place of incident and then to Thanjavur Viothagan Memorial Hospital, where he was treated as an inpatient for a period of 22 days. The Tribunal, taking note of the injuries sustained viz., communitated fracture on both bone right leg as evident from the evidence of P.W.2 Doctor, who has assessed the disability at 42%, fixing only a sum of Rs.2,000/- per percentage of disability, awarded a sum of Rs.84,000/- under the head Permanent disability. A Division Bench of this Court in the case of New India Assurance Co. Limited vs. V.Kannayiram, reported in 2012(1) TN MAC 611 has granted Rs.3,000/- per percentage of disability. By applying the said judgment, the claimant would be entitled for much more compensation. Even assuming for a moment that the percentage of disability fixed by the Tribunal is on the higher side for the sake of argument, certainly, the compensation towards attender charges and for extra nourishment are very meagre. Hence this Court finds no

reason to interfere with the compensation awarded by the Tribunal and hence 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 costs and interest @ 7.5% per annum from the date of claim petition to the credit of M.C.O.P.No.33 of 2013 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-IV)

//True Copy//

Sub Assistant Registrar

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To

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

1 cc to M/s.D.Venkatachalam, Advocate, sr.25268

C.M.A. No.3271 of 2013

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kra 07.06.2016

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