

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 07.12.2016

Judgment Pronounced on :21.12.2016

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

CMA.No.3353 of 2013
and MP.No.2 of 2014 in CMA.No.3353 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Regional Office,
Dharmapuri – 5.

... Appellant

Vs.

S.Prakasam

... Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 17.04.2013 made in MCOP.No.896 of 2013 on the file of the Special Sub Judge (MACT), Krishnagiri.

For Appellant : Mr.D.Venkatachalam
For Respondent : Mr.P.Subramanian

JUDGMENT

The appellant State Transport Corporation has come forward with this appeal challenging the award passed in MCOP.No.896 of 2013 by the Motor Accidents Claims Tribunal, Krishnagiri.

2. On 26.03.2010 at around 11.00 a.m., one Prakasam, a checking inspector of the appellant Corporation, chose to return after completing his duty by a bus bearing registration No.TN29-N-1914, that, needless to mention, belonged the appellant, and suffered major injuries leading to amputation of

his left hand above the elbow when the said bus met with an accident.

3. On various heads, Prakasam claimed a total compensation of Rs.15,00,000/-, whereas the Tribunal considered it just and appropriate and granted him a total compensation of Rs.8,10,537/-, of which the major component was loss of earning capacity of the claimant. For the loss of his left hand, P.W.4, the doctor who assessed the extent of disability of the claimant at 90%. The Tribunal however, reduced it to 30% and reckoned his monthly income at Rs.10,940/- based on Ex.P5-pay slip and the evidence of PW.3 and on applying 11 as multiplier arrived at a total compensation payable on this head at Rs.4,33,224/-. As to the various amount claimed in different heads and the award passed for each of it is provided in the tabulation below:

<i>Heads</i>	<i>Amount Claimed (Rs.)</i>	<i>Amount Awarded (Rs.)</i>
Loss of earnings from 26.3.2010 to 02.06.2010	5,00,000	
Partial loss of earning	50,000	32,820
Transport to hospital	20,000	10,000
Extra nourishment	10,000	
Medical Expenses	2,00,000	2,54,493
Future Medical Expenses	1,00,000	50,000
Loss of expenses for relatives to stay in the hospital	10,000	5,000
Pain & Suffering	5,00,000	25,000
Permanent Disability	5,00,000	
Loss of future earning power	5,00,000	4,33,224
Total :	23,90,000 (restricted to Rs.15,00,000/-)	8,10,537

4. The learned counsel for the appellant raised essentially a solitary point that Prakasam had been provided with alternate employment under " *The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995* " and therefore, there was no loss of employment or loss of earning capacity and the Tribunal ought to have taken this into consideration and should have refrained from adopting multiplier method for compensating the injuries suffered by the claimant. The claimant also continued his service and the learned counsel submitted that he is since superannuated.

5. Conceding that the claimant indeed was continued to be in the employ of the Corporation, the learned counsel for the claimant/respondent argued that his permanent disability still requires to be compensated as it was not separately compensated by the Tribunal. Besides, argued the counsel, compensation for loss of amenities and additional nourishment also needs to be compensated.

6. Instantly, the compensation of Rs. 4,33,224/- awarded under the head loss of future earning capacity needs to be deleted as it is admitted that the claimant did not lose his employment due to his permanent disability. However, his permanent disability itself needs to be compensated. Since it is medically determined that he had suffered 90% disability of his hand, compensation for his permanent disability is determined at Rs.2,25,000/-. For loss of amenities Rs.15,000/- is awarded and for extra nourishment another Rs.10,000/- is awarded. In all, the total compensation payable is

reduced from Rs.8,10,537/- to Rs. 6,27,313/-. This is rounded to Rs.6,27,500/-.

7. The appeal is partially allowed but without costs. The appellant is directed to deposit Rs. 6,27,500/- with interest at 6% per annum less any amount already deposited within four weeks from the date of receipt of copy of this order whereupon the claimant/respondent is entitled to receive the same forthwith. If however, the appellant has already deposited the entire amount as was awarded by the Tribunal, it is permitted to withdraw the balance amount after satisfying the amount now determined as payable with all accrued interest thereon. Consequently, connected miscellaneous petition is closed.

21.12.2016

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Index : Yes/No

Internet:Yes/No

To :

- 1.The Motor Accident Claims Tribunal
Special Sub Judge (MACT)
Krishnagiri.
2. The Record Keeper
VR Section,
High Court, Madras.

N.SESHASAYEE, J.

ds

CMA.No.3353 of 2013

21.12.2016

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