

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.3387 of 2013

Tamil Nadu State Transport
Corporation Ltd.,

rep. By its Managing Director,
Railway Station New Road,
Kumbakonam Town, Taluk & Munsif,
Thanjavur District.

... Appellant

Vs.

P.Kiliyammal

.. Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 08.05.2013 made in M.A.C.T.O.P No.30 of 2012 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Tiruvarur.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

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

2. In an accident which occurred on 15.04.2011, the claimant viz. P. Kiliyammal sustained grievous injuries and immediately, he was admitted in Tiruvarur Medical College Hospital, for treatment. Thereafter, she underwent treatment in a private Hospital. She filed a Claim Petition before the Tribunal seeking a sum of Rs.9,00,000/- as compensation. After analyzing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.9,15,384/- as compensation, however restricted the same to Rs.9,00,000/-. Details of the award are as follows:

Heads	Amount
Permanent disability	Rs.2,10,000.00
Purchase of provision of Bilateral prosthesis	Rs.1,09,500.00

Heads	Amount
Pain and suffering	Rs. 5,000.00
Transportation	Rs. 12,000.00
Medical expenses based on Exs.P5, 11 and 12 series	Rs.5,78,884.00
Total	Rs.9,15,384.00 r/off Rs.9,00,000.00

3. It is the contention of the learned counsel appearing for the appellant/Transport Corporation that the Tribunal ought not to have adopted multiplier method to calculate the loss of income of the injured, as she is a non-earning person.

4. On a perusal of the records, it is seen that on the fateful day of accident, the left side rear wheel of the Bus ran over the two legs of the claimant and her two legs were amputated by Doctors so as to protect her life. It is stated that the petitioner is unable to move from one place to another even at her home and that she has to depend upon other persons even to attend her day-to-day work.

5. Though it is contended that the petitioner is a non-earning person, according to the claimant, she is an agricultural coolie earning a sum of Rs.9000/- per month. The Tribunal taking note of the value of services rendered by a home-maker, fixed the notional income of the claimant at Rs.3,500/- per month. In the case of Syed Sadiq and others vs Divisional Manager, United India Insurance Co. Ltd. (2014 ACJ 627), the Apex Court fixed the notional income of a vegetable vendor at Rs.6,500/- per month. Thus, the fixation of Rs.3,500/- as the claimant's monthly income in this case cannot be faulted with. It is seen that both the legs of the claimant have been amputated and that she has to seek the help of others even to move around in her house. Moreover, no amount has been awarded under the head 'Attender charges'. Hence, this Court is of the view that the compensation of Rs.2,10,000/- awarded towards 'permanent total disability' is reasonable and it needs no interference.

6. As the compensation granted towards Medical Expenses and purchase of provision of bilateral prosthesis are supported by requisite Bills, they are confirmed. Further, I do not find any error in the compensation awarded towards 'pain and suffering' and 'Transportation'.

7. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation, i.e. a sum of Rs.9,00,000/- (Rupees Nine Lakhs only) and the rate of interest at 6% per annum awarded by the Tribunal. It is made clear that if no amount is deposited so far, the appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.30 of 2012 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Tiruvarur within a period of four 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 closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To :

The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Tiruvarur.

+1 cc to Mr.D.Venkatachalam Advocate sr 14512

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