

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
AND

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

C.M.A.No.521 of 2013

& M.P.No.1 of 2013

and

Cross Objection No.82 of 2014

C.M.A.No.521 of 2013

Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division III
Kancheepuram

... Appellant/Respondent

Vs.

Kumar

... Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgement and Decree passed by the Motor Accident Claims Tribunal, Vth Small Causes Court, Chennai, made in MCOP No.2615 of 2010 dated 4.4.2012.

For appellant : Mr.P.Paramasivados

For respondent : Mr.K.Varadakamaraj

Cross Objection No.82 of 2014

Kumar

... Cross Objector/
Respondent/Petitioner

Vs.

Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division III.
Kancheepuram,
Pincode - 631 501

... Respondent/Appellant/
Respondent

Cross Appeal filed under Order XLI Rule 22 of C.P.C. against the Judgement and Decree passed by the Motor Accident Claims Tribunal, Vth Small Causes Court, Chennai, made in MCOP No.2615 of 2010 dated 4.4.2012

For Cross Objector : Mr.K.Varadakamaraj

For respondent : Mr.Paramasivadoss

COMMON JUDGMENT

(Judgment of the Court was delivered by HULUVADI G. RAMESH, J.)

The Appeal and the Cross Objection are filed against the award passed by the Motor Accident Claims Tribunal, Vth Small Causes Court, Chennai, made in MCOP No.2615 of 2010 dated 4.4.2012.

2. It is a case of injury. On 25.12.2009 at about 3.30 hours, while the claimant was travelling in the bus bearing Registration No. TN-21-N-0907 which belongs to the respondent Corporation, the said bus was driven in a rash and negligent manner and dashed against a lorry bearing registration No.TN-55-M-6858 which was standing opposite to Salman Rice Mill near Salavathi Village in G.S.T. Road, Tindivanam, due to which, the claimant sustained multiple injuries and as a result of which, his two legs were amputated.

3. The claimant/injured has filed a claim petition in M.C.O.P.No. 2615 of 2010 seeking a compensation of Rs.20,00,000/-. In support of the claim, the claimant examined himself as P.W.1. One D.S.Sunder, the employer of the claimant was examined as P.W.2 and Dr.N.Saichandran, who assessed the disability of the claimant, was examined as P.W.3 and Exhibits P1 to P14 were marked on the side of the claimant/injured. No witness was examined and no exhibits were marked on the side of the Transport Corporation.

4. The Tribunal, after taking note of the oral and documentary evidence held that the accident had happened only due to the rash and negligent driving by the driver of the bus and fastened the liability on the Transport Corporation to compensate the claimants.

5. Accordingly, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl.No.	Head	Amount granted by the Tribunal
1	Transport charges	Rs. 10,000/-
2	Loss of social status	Rs. 25,000/-
3	Mental agony	Rs. 50,000/-
4	Attender charges	Rs. 1,00,000/-
5	Future medical expenses	Rs. 3,41,500/-
6	Pain and suffering	Rs. 1,00,000/-
7	Extra nourishment	Rs. 10,000/-
8	Medical expenses	Rs. 5,000/-
9	Loss of earning	Rs. 9,60,000/-
	Total	Rs.16,01,500/-

6. While the Appeal is filed for reduction of the compensation, the Cross Objection is filed for enhancing the quantum of compensation.

7. Learned counsel appearing for the Transport Corporation submitted that the compensation awarded by the Tribunal is on the higher side and that the award was passed without taking into consideration the actual income of the injured. He further submitted that the injured was a cook in a private catering service and there is no cogent evidence to prove his income. Therefore, the award passed towards loss of income is excessive. Learned counsel further submitted that the amount awarded under the head of future medical expenses, i.e., for the purchase of artificial limb, is highly excessive and hence, the award of compensation passed by the Tribunal has to be reduced.

8. Per contra, learned counsel appearing for the claimant/injured submitted that having regard to the age of the deceased and the fact that the injured was a Head Cook, the Tribunal ought to have awarded a higher compensation as the claimant being a Head Cook had lost his two limbs and there is also 100% disability as assessed by the doctor P.W.3. He further contended that the injured could not do any other work as his two legs were amputated. Learned counsel further submitted that the compensation awarded towards loss of income, mental agony and extra nourishment is meagre, which needs enhancement.

9. Having gone through the award passed by the Tribunal and taking into account the submissions made on either side, we are of the view that the finding rendered by the Tribunal, fastening the liability on the part of the driver of the

Transport Corporation, cannot be found fault with. However, we are of the view that the compensation awarded under the heads of loss of income, extra nourishment and mental agony is on the lower side and therefore, we are of the view that awarding a sum of Rs.1,50,000/- over and above the compensation awarded by the Tribunal would meet the ends of justice. Accordingly, taking the monthly income of the injured at Rs.5,500/-, we award a sum Rs.10,56,000 (i.e.,Rs.5500x12x16), instead of Rs.9,60,000/- awarded by the Tribunal, towards loss of income. Further, we award a sum of Rs.1,00,000/-, instead of Rs.50,000/- towards mental agony and a sum of Rs.14,000/- instead of Rs.10,000/- towards extra nourishment. There is no serious objection in respect of the interest granted at 7.5 % per annum. Accordingly, the compensation awarded by the Tribunal stands modified as follows:

Sl.N o.	Head	Amount granted by the Tribunal	Amount awarded by this Court
1	Transport charges	Rs. 10,000/-	Rs. 10,000/-
2	Loss of social status	Rs. 25,000/-	Rs. 25,000/-
3	Mental agony	Rs. 50,000/-	Rs. 1,00,000/-
4	Attender charges	Rs. 1,00,000/-	Rs. 1,00,000/-
5	Future medical expenses	Rs. 3,41,500/-	Rs. 3,41,500/-
6	Pain and suffering	Rs. 1,00,000/-	Rs. 1,00,000/-
7	Extra nourishment	Rs. 10,000/-	Rs. 14,000/-
8	Medical expenses	Rs. 5,000/-	Rs. 5,000/-
9	Loss of earning	Rs. 9,60,000/-	Rs.10,56,000/-
	Total	Rs.16,01,500/-	Rs.17,51,500/- (Rounded off to Rs.17,52,000/-)

10. In the result, C.M.A.No.521 of 2013 is dismissed and Cross objection No.82 of 2014 is allowed in part as follows:-

(i) The award of the Tribunal is enhanced to Rs.17,52,000/- from Rs.16,01,500/-.

(ii) The interest granted by the Tribunal at 7.5% per annum is confirmed.

(iii) The Transport Corporation is directed to deposit the award amount granted by this Court along with accrued interest and costs within a period of three months from the date of receipt of a copy of this order, if not already deposited.

(iv) On such deposit being made, the claimant/injured is permitted to withdraw the award amount passed by this Court on proper identification.

(v) There will be no order as to costs in the Appeal and the Cross Objection.

(vi) Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Motor Accident Claims Tribunal,
Vth Small Causes Court, Chennai.
2. The Section Officer,
V.R.Section,
High Court, Madras.

Copy To

The Managing Director,
T.N State Transport Corporation Ltd.,
Villupuram Division III, Kancheepuram.

+1cc to Mr.K.Varadakamaraj, Advocate, S.R.No.25161
+1cc to Mr.P.Paramasivadoss, Advocate, S.R.No.25579

C.M.A.No.521 of 2013

and

Cross Objection No.82 of 2014

RSK(CO)
CA(23/06/2016)

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