



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.840 of 2015

and

M.P.(MD)No.3 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
(Kumbakonam - Division II),
27, Railway Station New Road,
Periyamilaguparai, Trichy.

.. Appellant/Respondent

Vs.

R.Krishnamoorthy

.. Respondent/Petitioner

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree made in M.C.O.P.No.199 of 2012, dated 25.07.2014, on the file of the Motor Accidents Claims Tribunal / Principal Sub Court, Karur.

For Appellant : Mr.P.Prabhakaran
For Respondents : Mr.N.Sudhagar Nagaraj

JUDGMENT

The appellant/Transport Corporation has filed the present C.M.A(MD)No.840 of 2015, challenging the award passed in MCOP.No.199 of 2012, dated 25.07.2014, on the file of the Motor Accidents Claims Tribunal / Principal Sub Court, Karur.

2.It is a case of a grievous injury caused in the accident took place on 24.06.2012 around 08.30 p.m. in Karur to Dindigul Road. The injured victim filed an application seeking compensation before the Tribunal. Considering the facts and circumstances of the case, the Tribunal awarded Rs.4,23,000/- as total compensation. Challenging the same, the appellant/Transport Corporation has preferred this appeal mainly on the ground that the Tribunal erroneously adopted multiplier and fix the compensation. The proved fact before the Tribunal is that the Doctor has assessed the partial permanent disability of the respondent/claimant as 30% and therefore, the Tribunal ought not to have adopted multiplier. Contrarily, the Tribunal ought to have fixed Rs.3,000/- for 1% of partial permanent disability.



Contrarily, the Tribunal adopted multiplier and fix the compensation for loss of earning power as Rs.2,43,000/-.

3.The learned counsel for the respondent opposed the appeal by stating that the respondent/claimant sustained severe head injury, resulted loss of memory. In view of the fact that he sustained grievous head injuries, the Tribunal awarded by adopting the multiplier and there is no irregularity in the quantum of compensation granted by the Tribunal and the appeal is to be dismissed.

4.Considering the rival arguments both by the learned counsel for the appellant and the respondent, this Court is of the view that a consistent proposition is adopted in respect of the disability percentage of 30% and for the Doctor certificate in respect of 30% assessment, the Tribunal ought not to have adopted multiplier. The Tribunal ought to have fixed the quantum of compensation by fixing Rs.3,000/- for 1%. In view of the this proposition, this Court is inclined to consider the grounds of appeal by modifying the quantum of compensation granted under the head of loss of earning power from Rs.2,43,000/- to Rs.90,000/-.

5.Accordingly, the total compensation of Rs.4,23,000/- is modified to Rs.2,70,000/- and the respondent/claimant is entitled for the same. The Civil Miscellaneous Appeal is partly allowed and in all other respects, the award passed by the Tribunal is confirmed.

6.The learned counsel for the appellant/Transport Corporation represented that the entire award amount has already been deposited with accrued interest. The respondent/claimant is permitted to withdraw the modified compensation amount of Rs.2,70,000/- with accrued interest through RTGS, by filing necessary application before the Tribunal. The appellant/Transport Corporation is permitted to withdraw the remaining award amount with proportionate accrued interest by filing necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar.



To
The Motor Accidents Claims Tribunal /
Principal Sub Court, Karur.

Copy to :

The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to M/s.P.Prabhakaran, Advocate in SR.No.74138

+1 cc to M/s.N.Sudhagar Nagaraj, Advocate in SR.No.74518

vsa

SMA/SS-2/06.01.2017 : 3P-5C

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