

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 13.12.2017
CORAM:
THE HON'BLE Dr. JUSTICE S.VIMALA
Civil Miscellaneous Appeal No.2139 of 2016
and C.M.P.No.15403 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Tirunelveli Division ... Appellant/Respondent

..vs..

Parvathy ... Respondent/Claimant

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 24.07.2015 made in M.C.O.P.No.1143 of 2013 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr. K.S.Suresh
For Respondent : Mr. A.Kumar

J U D G M E N T

The claimant, Parvathy, aged 23, doing business, earning a sum of Rs.10,000/- per month, met with an accident on 06.06.2012, who suffered spinal cord fracture and right leg fracture, has filed the claim petition for compensation claiming a sum of Rs.6,00,000/-.

2. As against the claim made, the Tribunal has passed an award for a sum of Rs.5,51,000/-, the breakup details of which, reads thus:-

Disability	-	Rs.1,65,000.00
Pain and suffering	-	Rs.1,00,000.00
Extra nourishment	-	Rs. 75,000.00
Transport to hospital	-	Rs. 50,000.00
Damages to clothes	-	Rs. 3,000.00
Attender charges	-	Rs. 40,000.00
Medical expenses	-	Rs. 17,000.00
Future medical expenses	-	Rs. 25,000.00
Loss of income	-	Rs. 26,000.00
Loss of earning power	-	Rs. 30,000.00
Loss of amenities	-	Rs. 20,000.00

Rs.5,51,000.00

3. Challenging the award as excessive and disproportionate to the injuries suffered, the Transport Corporation has filed this Appeal.

4. The learned counsel for the appellant / Transport Corporation has confined his arguments only with regard to the quantum of compensation.

4.1. The main contention raised by the learned counsel appearing for the appellant is that the Tribunal committed mistake in awarding a sum of Rs.3,000/- per percentage in respect of loss of earning capacity and there is no basic material for that. It is also contended that the award under extra nourishment, transport to hospital, attendant charges and pain and sufferings are on the higher side.

5. In order to appreciate the contentions raised, it is necessary to look into the nature of injury, period of treatment and the nature of disability.

5.1. The details of the injury suffered has been discussed by the Tribunal in paragraph 8 of the judgment from which it is evident that because of the spinal cord fracture, there had been surgery and screws and implant have been used for the surgery leading to consequent permanent disablement to the extent of 55%. It is the functional disability arising on account of physical disablement, i.e., material and the Tribunal has adopted the formula of awarding disability compensation, which appears to be unjustifiable on account of the functional disability due to fracture in the spinal cord.

6. It is needless to point out that, for any human being, at any age, the said kind of fracture would have a direct impact, not only upon the earning capacity, but also upon the day to-day activities of life. Therefore, the Tribunal committed mistake in awarding 30% towards the loss of earning power and it should have been quantified in a very reasonable scale. To equalize the same, wherever there is an excess award, that could be brought under this head.

6.1. The amount awarded towards extra nourishment at Rs.75,000/- is restricted to Rs.10,000/- and transport to hospital awarded at Rs.50,000/- is also restricted to Rs.10,000/- and the remaining amount would be allocated to be head of loss of earning power and thus, the contention raised with regard to excess award on the heads of transport to hospital and extra nourishment is answered.

7. In view of the above reasonings, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected CMP is closed.

8. It is represented by the learned counsel appearing for the appellant / Transport Corporation that already the compensation amount as awarded by the Tribunal has been deposited by it. Hence, the Tribunal is directed to transfer the said sum to the Savings Bank Account to the claimant / respondent, through RTGS.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To

1.The IV Court of Small Causes,
Motor Accident Claims Tribunal,
Chennai.

2.The Section Officer,
V.R.Section, Madras High Court,
Chennai 104 (2 Copies)

+1cc to Mr.K.S.Suresh, Advocate SR.No.88611

+1cc to Mr.A.Kumar, Advocate SR.No.88651

C.M.A.No.2139 of 2016
and C.M.P.No.2139 of 2016

SV (CO)
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