

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2017

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. No.1755 of 2017

and

CMP.No.9468 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
(Villupuram) Ltd.,
Villupuram

.. Appellant

Versus

G.Kannan

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the judgment and decree dated 07.11.2012 made in MCOP.No.626 of 2011 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Krishnagiri.

For Appellant : Mr.S.Sairaman

JUDGEMENT

The appeal has been filed by the Transport Corporation challenging the quantum of compensation.

2. The petitioner G.Kannan, who was the ex-service man, aged about 60 years, self employed earning Rs.15,000/- per month, met with an accident on 03.12.2010, and claimed a sum of Rs.5,00,000/- as compensation. He filed the claim petition before the Motor Accident Claims Tribunal, Krishnagiri, in MCOP.No.626 of 2011. The Tribunal on consideration of materials placed before it, has awarded a compensation of Rs.1,46,300/-. Challenging the quantum as excessive, the transport Corporation has filed this appeal.

3. The learned counsel appearing for the appellant would submit that the quantum of compensation awarded is against the settled principles of law and therefore the award passed by the Claims Tribunal cannot be justified.

4. In order to appreciate this contention, it is necessary to find out details of injury, period of treatment, nature of disability and the amount of compensation awarded. The Tribunal has relied upon Ex.A6, discharge summary of the claimant, from which it is evident that the claimant has been admitted in the hospital on 10.12.2010 and discharged on 20.12.2010. Further, in Ex-A6, it is revealed that there was a complaint of multiple fracture of rib bones on the right side and fracture of right clavicle. Records of medical history / case sheet have been issued by Army Command Hospital, Bangalore, which has been relied upon as Ex-A7.

5. Further, Dr.Gandhi, has been examined as PW2 to prove the percentage of disability. According to his opinion, the claimant has suffered 40% disability.

6. Considering the fact that this kind of disability would be an impediment to discharge his day to day activities as Security, the Tribunal has awarded compensation under the following break up details:

Disablement compensation at Rs.2,000/- per percentage on 40% disability	:Rs.80,000/-
Medical bills (as per Ex.A3)	:Rs. 1,200/-
Transport expenses (supported by Ex.A5)	:Rs. 6,600/-
Pain and suffering (in respect of clavicle fracture and fracture of right rib bones 3, 4, 7 and 8)	:Rs.25,000/-
Extra nourishment and cost of attenders	:Rs.10,000/-
Future treatment	:Rs.10,000/-
Loss of earning for 3 months (Rs.4,500/- X 3)	:Rs.13,500/-
Total	:Rs.1,46,300/-

7. From the details of the award passed, the Court can easily see that the Tribunal did not apply the multiplier method to assess the loss of earning capacity. Disability at this age and fracture of clavical and rib bones would definetly make the claimant disabled to attend any work for certain period. It is common knowledge that those who are employed as Ex-service men would prefer not to sit idle but to work preferably as a security personnel. Therefore, the petitioner would suffer loss of earning capacity. But the tribunal has awarded only disablement compensation. The loss of earning capacity is not considered, by the Tribunal while awarding compensation. The accident to the claimant would make his life miserable for the

remaining period of survival, beyond causing loss of earning capacity.

8. In view of the above reasonings, the appeal filed by the transport corporation is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Motor Accident Claims Tribunal,
Principal Subordinate Judge, Krishnagiri.

2. The Section Officer,
V.R. Section, High Court, Madras.

+1 cc to M/s.S.Sairaman Advocate sr 43413

C.M.A. No.1755 of 2017

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