

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.272 of 2015

and

M.P.No.1 of 2015

The Managing Director

TNSTC (Kumbakonam Division) Ltd., Railway
Station new road, kumbakonam,
Tanjore District

... Appellant/Respondent

Vs.

1. Rukmani ... Respondent/Petitioner

2. T.Gnanasekaran

3. The Manager, Bajaj Allianz General Insurance
Company Ltd., 25/26, Prince town, 4th floor college
Road, Nungambakkam, Chennai. ... Respondents/Respondents

Prayer : Appeal filed under Section 173 of the Motor Vehicles
Act, 1988 against the judgment and decree dated 26.03.2014
passed by the Motor Accidents Claims Tribunal, 1st Additional
Subordinate Court, Cuddalore, in M.C.O.P.No.2225 of 2008 dated
26.03.2014.

For Appellant

: Mr.D.Venkatachalam

J U D G M E N T

Challenging the liability as well as the quantum of
compensation awarded by the Claims Tribunal, in M.C.O.P.No.2225
of 2008, dated 26.03.2014, the Transport Corporation has come
forward with this Civil Miscellaneous Appeal.

2. The Claimant one Rukmani, aged 40 years, an
Assistant Electrician, earning a sum of Rs.200/- per day met
with an accident on 14.07.2008. Due to which she sustained
fracture on right hand, heavy impact and contusion on left
thigh, heavy impact and injury on left knee and grievous
injuries all over the body. Hence, the claimant filed a claim
petition in M.C.O.P.No.2225 of 2008, seeking compensation for a
sum of Rs.5,00,000/-.

3. The Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs.1,77,600/-, with interest @ 7.5% per annum from the date of petition till the date of deposit. The break-up details of the same are as under:

Permanent disability (45% x 2000)	-	Rs.90,000/-
Transport to hospital	-	Rs.10,000/-
Extra Nourishment	-	Rs.10,000/-
Damage to clothing and article	-	Rs. 2,000/-
Attendant's charge	-	Rs. 3,000/-
Medical expenses (as per Ex.P6 Rs.2590/- rounded to Rs. 2,600/-	-	Rs. 2,600/-
For Pain and sufferings	-	Rs. 30,000/-
Loss of amenities and enjoyment in life	-	Rs. 30,000/-
		Rs.1,77,600/-

4. The learned counsel for the appellant would contend that the Claims Tribunal had not considered the counter affidavit filed by the appellant and erroneously came to the conclusion that the driver of the appellant Corporation is responsible for the accident. It is his further submission that the amount of compensation awarded by the Claims tribunal is on the higher side and the same needs to be reduced.

5. The learned counsel for the respondent would submit that the Claims Tribunal has awarded the compensation, after considering the oral and documentary evidence.

6. A perusal of the award would go to show that the Tribunal, based on Ex.P4- Discharge summary and Ex.P7- disability certificate issued by P.W.2- the Doctor who examined the claimant has fixed the disability @ 45% and based on the Judgment reported in 2010 (1) TNMAC 48 has fixed a sum of Rs.1,000/- per percentage of disability and awarded a sum of Rs.90,000/- towards permanent disability which is not excessive.

7. As far as Loss of amenities is concerned, considering the fact that the claimant is a women aged 40 years, engaged herself in the post of Assistant electrician, a sum of Rs.30,000/- awarded towards loss of amenities is less and the same need not be reduced. The amount awarded towards other heads are also reasonable and the same does not warrant any interference.

8. As far as negligence is concerned, the Claims Tribunal on consideration of Ex.P1- Xerox copy of F.I.R., Ex.P3- Xerox copy of Motor Vehicle Inspector's report and Ex.P5- Xerox copy of driving licence of the first respondent has correctly fixed the negligence on the driver of the appellant corporation.

9. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the Judgment and decree of the Claims Tribunal, in M.C.O.P.No.2225 of 2008 dated 26.03.2014. The Transport Corporation is directed to deposit the entire amount of compensation within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is permitted to withdraw the same. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

arr

To

1.The first Additional Subordinate Court, Cuddalore

2.The Section Officer, VR Section,High Court, Madras

+1cc to Mr.P.Venkachalam,Advocate sr.16913

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