

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.502 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Trichy - 620 001. ... Appellant / respondent

versus

L.Mani. ... Respondent/Petitioner

Prayer : The appeal filed under Section 173 of Motor Vehicles Act, against the Judgment and Decree dated 12.06.2014 made in M.C.O.P.No.2566 of 2012 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Cuddalore.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

The claimant Mani, aged about 50 years, doing Real Estate Business, earning a sum of Rs.10,000/- p.m. met with an accident on 12.09.2012 and sustained injuries. Hence, he filed a claim petition in M.C.O.P.No.2566 of 2012 before the Motor Accident Claims Tribunal, Principal Subordinate Judge, Cuddalore, claiming compensation of Rs.6,00,000/-.

2. The Tribunal, after considering the oral and documentary evidence, has awarded a sum of Rs.1,39,400/- as compensation, the break-up details of which are as under:

Loss of earnings for two months (Rs.5000 x 2).	Rs. 10,000/-
Pain and sufferings	Rs. 15,000/-
Medical expenses	Rs. 5,000/-
Transportation	Rs. 5,000/-
Extra nourishment	Rs. 3,000/-
Loss of earning capacity	Rs.1,01,400/-
Total	Rs.1,39,400/-

Challenging the same as excessive, this appeal has been filed by the Transport Corporation.

3. The learned counsel appearing for the appellant submitted that when there was no valid documentary evidence to prove the age and income, the Tribunal ought not to have fixed the income of the claimant at Rs.5,000/- and ought not to have adopted multiplier method while calculating the compensation for disablement compensation. Therefore, the compensation has to be reduced.

4. A perusal of the award reveals that according to the evidence of the doctor, the disability was 40% on account of the fracture sustained, but, considering the whole body, the disability could be only fixed at 13%. The Tribunal considering the age of the petitioner/claimant has come to the conclusion that the functional disability would be to the minimum extent of 13% and thus has calculated the loss of earning capacity using multiplier method. While quantifying the compensation for disability at 13%, the Tribunal has fixed the income of the claimant at Rs.5,000/- and by the adopting the multiplier of 13 as the claimant was aged at 50 years at the time of accident, awarded disablement compensation at Rs.1,01,400/-.

5. It is relevant to point out that the future prospective increase in income has not been considered. Moreover, for a person doing real estate business, the monthly income has not been taken even at Rs.6,500/-, which is the amount fixed even for an agriculturist by the Supreme Court in Syed Sadiq's case (2014 (1) TNMAC 459). Just because there are no documents filed, there cannot be any inference that the claimant was not earning. Without earnings, it is not possible to run the life. What is fixed as monthly income is the barest minimum. Therefore, the contention that the monthly income fixed is high cannot be accepted, more so the amount fixed as monthly income is even below the standard fixed by the Supreme Court in the case referred to above. Therefore, the compensation awarded under the head loss of earning capacity cannot be said to be excessive and the same is confirmed.

6. Insofar as the compensation awarded under the other heads are concerned, a perusal of the same reveals that the compensation awarded on those heads is at a barest minimum and, therefore, no interference is called for with the said amounts. Even the learned counsel for the appellant has not raised any grievance over the amounts awarded under the other heads.

7. In the result, the appeal is dismissed, confirming the award dated 12.06.2014 made in M.C.O.P.No.2566 of 2012 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Cuddalore.

8. The Transport Corporation is directed to deposit the entire compensation awarded by the Tribunal, less the amount if any already deposited, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, to the credit of claim petition, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the same directly to the Bank Account of the claimant through RTGS within a period of two weeks thereafter.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

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

Copy to

The Section officer
VR Section, High Court, Madras.

+1 CC to Mr.D. Venkatachalam, Advocate sr 1967.

C.M.A.No.502 of 2016

MP (CO)
SP (12/04/2018)

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