

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2017

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. No.2138 of 2017
and

C.M.P. No.11361 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Vellore. .. Appellant/R4

Versus

1. Vasu ... R1/Petitioner
2. Z.Abdullah ... R2/R1
3. Royal Sundaram Alliance Insurance Company Ltd.,
2nd Floor, No.3, Khader Nawaz Khan Road,
Nungambakkam,
Chennai -600 006. ... R3/R2
4. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kancheepuram. .. Respondent 4/R3

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 08.12.2016 made in M.C.O.P. No.149 of 2012 on the file of Motor Accident Claims Tribunal, (In the Court of the II Additional District and Sessions Judge) Vellore @ Ranipet, Vellore District).

For Appellant : सत्यमेव जयते Mr. S. Sairaman

JUDGMENT

The present appeal has been preferred by the appellant/Transport Corporation challenging the quantum of compensation awarded at Rs.1,58,900/- as against the claim made for a sum of Rs.4,00,000/-.

2. The claimant, Vasu, aged 48, a businessman, earning a sum of Rs.10,000/- p.m. met with an accident on 14.04.2011 in which he sustained humerus bone and radial shaft fracture. He filed the claim petition in O.P. No.115 of 2011 claiming

compensation in a sum of Rs.4,00,000/- . The Tribunal, awarded a sum of Rs.1,58,900/-, the break up of which are as hereunder :-

For 40% disablement (Rs.2,000/- per percentage)	: Rs.80,000/-
Medical bills as per Ex.P5	: Rs.30,000/-
Medical bills as per Ex.P3	: Rs. 3,900/-
Transportation	: Rs.10,000/-
Nutrition	: Rs.10,000/-
Pain and sufferings	: Rs.20,000/-
Attendant charges	: Rs. 5,000/-
Total	: Rs.1,58,900/-

3. Learned counsel appearing for the appellant submits that the above amount has been awarded without there being any persuasive evidence and that the compensation awarded is excessive and unreasonable and, accordingly, the same needs to be proportionately reduced.

4. Before the Tribunal, the 4th respondent Transport Corporation, which was added as a party respondent pleaded that the bus, which caused the accident does not belong to them; that the 4th respondent Corporation has been unnecessarily impleaded as a party to the lis and a counter affidavit was also filed before the Tribunal to that effect. The said plea taken by the 4th respondent has not been repudiated by the appellant herein either before the Tribunal or before this Court.

5. The details of compensation and the heads under which the same has been awarded by the Tribunal, as shown above, would go to show that the award under each and every heads is rationale and based on evidence and neither it is excessive nor unreasonable. It is also trite to point out that the Tribunal had awarded compensation for disability on per percentage basis and not on the multiplier method, which clearly goes to show that the Tribunal has chosen to award only disablement compensation and did not adopt multiplier method. The Tribunal, though has awarded only disablement compensation, ought to have awarded compensation towards loss of enjoyment of amenities, but it has not awarded any compensation under the said head. In such circumstances, it cannot be said that the Tribunal has not considered the evidence in proper perspective and has awarded

excessive amounts. The compensation awarded is just, fair and reasonable and is based on well considered findings. The grounds as raised by the appellant in the appeal are devoid of merits and are liable to be rejected.

6. In the result, there being no merits, the appeal stands dismissed confirming the judgment dated 8.12.2016 passed by the Motor Accident Claims Tribunal, Vellore @ Ranipet, made in MCOP No.149 of 2012. Consequently, connected Miscellaneous petition is also closed. However, there shall be no order as to costs.

7. The appellant / Transport Corporation is directed to deposit the entire award amount, less the amount already deposited, if any, along with with interest @ 7.5% per annum from the date of petition till the date of deposit to the credit of MCOP No.149 of 2012 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the account of the 1st respondent/claimant through RTGS within a period of two weeks thereafter.

Sd/-

Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

vsi2/GLN

To:

1.The II Additional District and Sessions Judge,
The Motor Accident Claims Tribunal
Vellore @ Ranipet, Vellore District

2. The Section Officer,
V.R. Section,
High Court, Madras - 104.

+1cc to Mr.S.Sairaman, Advocate SR.No.51879

C.M.A. No.2138 of 2017

EV(CO)
GN(16/02/2018)