IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED : 14.06.2017

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THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.2184 of 2017
and
C.M.P.No. 11584 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Division-III, No.1,2 Sheikpet Nadu Street,
Kanchipuram.
.. Appellant/Respondent

-/Vs/-

R.Silambarasan .. Respondent/Claimant

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Judgment and Decree dated 30.11.2016 made in M.A.C.T.O.P.No.18 of 2011 on the file of the Motor Accidents Claims Tribunal(The Subordinate Judge), Kanchipuram.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

The claimant, Silambarasan, aged 20 years, a staff in Soap Company and earning a sum of Rs.10,000/- (Rupees Ten Thousand Only) per month, met with an accident on 31.07.2010. He filed a claim petition claiming a sum of Rs.5,00,000/- as compensation.

2. The Tribunal, on consideration of oral and documentary evidence, though quantified the compensation at Rs.5,85,400/-, however, as the claimant himself made a claim only for a sum of Rs.5,00,000/-, the Tribunal restricted the award to a sum of Rs.5,00,000/-. Challenging the quantum of compensation as excessive, the present appeal has been filed by the transport corporation.

3. Learned counsel appearing for the appellant contends that the disability fixed at 40% is on the higher side. It is further submitted that the claimant not having filed proof to substantiate the income, the income fixed by the Tribunal at Rs.6,500/- is on the higher side. Therefore, the same needs to be reconsidered and the compensation deserves to be reduced.

4. A perusal of the materials available on record reveals that the claimant suffered fracture over the right femur bone, cut injuries in the right hand, crush injury in the right femur and cut injuries all over the body. The doctor certified that the disability as 40%. Considering the nature of injuries sustained by the claimant and the treatment undergone by the claimant, the Tribunal accepted the disability fixed by the Doctor at 40%.

5. Insofar as the monthly income is concerned, though the claimant claimed that he was earning a sum of Rs.10,000/- per month, in the absence of any documentary evidence to substantiate the same, the Tribunal, following the ratio laid down in Syed Sadiq & Ors. - Vs - Divisional Manager, United India Insurance Co. Ltd., (CDJ 2014 SC 44) fixed the notional monthly income at Rs.6,000/-. Further, taking into consideration the injuries suffered by the claimant, the Tribunal proceeded to adopt the multiplier method and, accordingly, taking the age of the deceased, fixed the multiplier of 18 and quantified the loss of earning at Rs.5,18,400/- (Rs.6000 X 12 X 18 X 40/100).

6. Though it is the contention of the learned counsel appearing for the appellant that the compensation awarded is on the higher side and the adoption of multiplier is wrong, however, a perusal of the order passed by the Tribunal reveals that the Tribunal, based on the ratio laid down by the Apex Court in Syed Sadiq's case (supra), has fixed the monthly income conservatively at Rs.6,500/- and following the ratio laid down in Sarla Verma's case, has adopted the proper multiplier of 18 and has quantified the compensation. Further, it is to be pointed out that the Tribunal has considered the injuries sustained by the claimant and the treatment undergone and the impact of the injuries on the future life of the claimant, has accepted the assessment of the Doctor in fixing the disability at 40%, which cannot be found fault with. On an overall consideration of the matter, this Court finds that the Tribunal has applied its mind to the facts in issue and has awarded just and reasonable compensation, which cannot be said to be excessive.

7. Insofar as the compensation awarded under the other heads are concerned, considering the injuries sustained and the treatment taken, the said compensation cannot be said to be excessive or disproportionate. Accordingly, the same are confirmed. Though the Tribunal has quantified higher compensation, however, the claimant having sought for only a compensation of Rs.5,00,000/=, has awarded only the said sum and not the compensation as quantified by it. Therefore, the award

passed by the Tribunal cannot be said to be excessive or disproportionate. Accordingly, the same is confirmed.

8. For the reasons aforesaid, this appeal is liable to be dismissed and, accordingly, the same is dismissed. Consequently, connected miscellaneous petition is closed.

9. The appellant/Transport Corporation is directed to deposit the entire award amount, along with interest and costs as quantified by the Tribunal, less the amount, if any, already deposited, to the credit of the 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 award amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ksa/GLN

To

1. The Subordinate Judge, Kanchipuram.

C.M.A. No.2184 of 2017

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nr 10/05/2018