IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED : 13.06.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.2212 of 2017
and
C.M.P.No. 11776 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
New Railway Station Road,
Kumbakonam - 612 001.
.. Appellant/Respondent

-/Vs/-

G.Meganathan .. Respondent/petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Judgment and Decree dated 14.06.2016 made in M.A.C.T.O.P.No.601 of 2015 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court, Cuddalore.

For Appellant : M/s.D.Venkatachalam
G.Ramar

J U D G M E N T

The claimant, Meganathan, aged 50 years, working as mason and earning a sum of Rs.15,000/- (Rupees Fifteen Thousand Only) per month, met with an accident on 25.10.2014. He filed a claim petition claiming a sum of Rs.15,00,000/- as compensation.

2. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.2,97,600/-, the break-up details of which is as under :-

Pain and suffering	:	Rs.25,000/-
Medical Expenses	:	Rs.10,000/-
Transport expenses	:	Rs.10,000/-
Extra nourishment	:	Rs.10,000/-
Loss of articles	:	Rs. 5000/-
Loss of future income	:	Rs.2,37,600/-
Total		Rs.2,97,600/-

Challenging the quantum of compensation as excessive, the present appeal has been filed by the transport corporation.

4. The learned counsel appearing for the appellant submits that this is not a fit case for adopting multiplier method to calculate the loss of earning capacity. It is submitted that the Tribunal committed a mistake in adopting multiplier method, without taking into consideration the nature of injury suffered by the claimant and the period of treatment. Therefore, it is prayed that this Court has to reduce the compensation awarded under the head loss of earning capacity.

5. From the perusal of the records, it is pertinent that the injured has suffered fracture of the bone. It shows crush injury over the left side of the hip resulting in expansion of chest. The records further reveals that the injuries sustained by the claimant in the hip and the bones in the leg would make it inconvenient for the claimant to do agricultural work. The doctor has assessed the disability at 60%. On an overall consideration of the injuries sustained by the claimant and the impact it would have on the earning capacity of the claimant, this Court is of the considered view that the avocation of the claimant being agricultural work, it would be very difficult for the claimant to discharge the agricultural functions. Though the doctor has assessed the disability at 60%, however, conservatively, the Tribunal has assessed the functional disability at only 30%.

6. While calculating the compensation for loss of earning capacity, monthly income of the claimant has been fixed at Rs.6000/- and based on the age as reflected in Ex.P-2, accident report, which shows the age of the claimant as 53, the Tribunal, adopting the multiplier method, adopting 11 as the multiplier, fixing the functional disability at 30%, has quantified the compensation towards loss of earning capacity at Rs.2,37,000/= (6000 x 12 x 11 x 30%).

7.On an overall consideration of the reasoning given by the Tribunal, it is seen that the Tribunal has applied its mind and has assessed the functional disability and based on the said assessment, has calculated the loss of earning capacity by adopting multiplier method. The said reasoning of the Tribunal cannot be found fault with and this Court, accordingly, concurs with the view of the Tribunal. This Court holds that the compensation awarded under the head loss of earning capacity cannot be said to be excessive or unreasonable and, accordingly, the said compensation awarded is confirmed.

8. Except for the compensation awarded under the head loss of earning capacity, the compensation awarded under the other heads have not been put in issue and this Court finds that the compensation under those heads are also not excessive and, accordingly, the same is confirmed.

9. For the reasons stated above, this appeal is liable to be dismissed and, accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petition also closed.

10. 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(CO)

//True Copy//

Sub Assistant Registrar

ksa/GLN

To

1. The Special Subordinate Judge/
Motor Accident Claims Tribunal
Cuddalore.

C.M.A. No.2212 of 2017
and
C.M.P.No. 11776 of 2017

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