

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 13.02.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.223 of 2017

and

CMP.No.1466 of 2017

The Managing Director,
M/s.Tamilnadu State Transport Corporation Ltd,
Villupuram. ...Appellant/Respondent

versus

Pandian ..Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.395 of 2012 dated 24.06.2014, on the file of the Motor Accidents Claim Tribunal, Chief Judicial Magistrate, Perambalur.

For appellant : Mr.P.Paramasivadoss

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims tribunal, in M.C.O.P.No.395 of 2012, the Transport Corporation has come forward with this Civil Miscellaneous Appeal.

2. The claimant, aged 45 years, an agricultural coolie, earning a sum of Rs.10,000/- per month met with an accident on 01.02.2012 due to which, he sustained head injury. Hence, he filed a claim petition in M.C.O.P.No.395 of 2012 before the Motor Accident Claims Tribunal, Perambalur, seeking compensation for a sum of Rs.4,00,000/-.

3. The Claims Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs.1,19,500/-, as compensation. The break-up details of the same are as under:

Loss of earnings (4000x4)	-	Rs.16,000/-
Pain and sufferings	-	Rs.15,000/-
Nutrition and Transportation	-	Rs. 5,000/-
disability (3000x26)	-	Rs.78,000/-
Medical expenses	-	Rs. 2,500/-
Attendant charges	-	Rs. 3,000/-

Rs.1,19,500/-

Challenging the compensation awarded as excessive, the appellant has preferred the present appeal.

4. The learned counsel for the appellant submitted that the Tribunal ought not to have fixed the salary of the claimant at Rs.4,000/- which is on the higher side. It is his further submission that the tribunal ought not to have fixed the disability @ 28% and awarded Rs.3,000/- per percentage of disability, which is also on the higher side. He further contended that the amount of compensation awarded by the Tribunal is very high and the same needs to be reduced.

5. A perusal of the award passed by the Claims tribunal reveals that the Tribunal has relied upon the evidence of P.W.2 - the Doctor who examined the claimant and issued Ex.P2-disability certificate. The Doctor in his evidence has stated that the disability suffered by the claimant is 28% and if proper treatment is taken as prescribed by the Doctor, there is possibility of the disability getting reduced to 20%. Hence, the tribunal has fixed the disability @ 26% and adopting percentage method awarded Rs.3,000/- per percentage of disability and quantified the compensation at Rs.78,000/-. Though it is the contention of the learned counsel that the adoption of Rs.3,000/- per percentage of disability is on the higher side, however, taking into consideration the fact that the accident had happened in the year 2012, the Tribunal has rightly fixed Rs.3,000/- per percentage of disability. The Tribunal has considered the entire evidence and taking into consideration the nature of injuries suffered, the impact of the injuries on the life of the claimant and the period of treatment has quantified the compensation, which can neither be said to be erroneous nor could it be said to be excessive. Accordingly, the same is confirmed.

5. Insofar as the compensation awarded under the other heads are concerned, viz., Pain and suffering, Transportation and Nutrition, Loss of earnings, Medical expenses and attendant charges, a perusal of the same reveals that the compensation awarded is just and reasonable and is commensurate with the injuries sustained. Therefore, no interference is called for with the said quantification.

6. For the reasons aforesaid, this Civil Miscellaneous Appeal is liable to be dismissed and, accordingly, the same is dismissed confirming the Judgment and Decree of the Claims Tribunal, in M.C.O.P.No.395 of 2012, dated 24.06.2014. Consequently, connected Miscellaneous Petition is closed.

7. 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 amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

arr/GLN

Sd/-

Assistant Registrar(CS VII)

//True Copy//

To Sub Assistant Registrar

The Presiding Officer, Motor Accidents Claim Tribunal,
Chief Judicial Magistrate, Perambalur.

GMR (CO)
sm:28.4.2018

C.M.A. No.223 of 2017



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