

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED : 08.02.2017
CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.236 of 2017
and
CMP.No.1556 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kancheepuram .. Appellant/Respondent

versus

Raja .. Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree passed by the Motor Accidents Claims Tribunal, Special Sub Court II, Chennai made in MCOP No.4688 of 2010 dated 30.10.2013.

For appellant : K.J.Sivakumar

J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal in M.C.O.P.No.4688 of 2010, this appeal has been filed by the Transport Corporation.

2. The Claimant, Mr.Raja, aged 21 years, employed as a Coolie in Koyambedu market, earning a sum of Rs.200/-per day, met with an accident on 12.09.2010 as a result of which, he sustained fracture in hip and other grievous injuries all over the body. Hence, he filed a Claim Petition in M.C.O.P.No.4688 of 2010, before the Motor Accidents Claims Tribunal, (V Small Causes Court), Chennai, claiming a sum of Rs. 8,00,000/- as compensation.

3. The Tribunal, on considering the oral and documentary evidence, awarded a sum of Rs.3,00,000/- as compensation, the break-up details are as under:

1. For 45% partial and permanent disability - at the rate of Rs.2000 per percentage	-	Rs. 90,000/-
2. Pain and Sufferings	-	Rs. 30,000/-
3. Extra nourishment	-	Rs. 10,000/-
4. Attendant Charges	-	Rs. 10,000/-
5. Transportation Charges	-	Rs. 10,000/-
6. Loss of income for 4 months rounded to	-	Rs. 20,000/-
7. Medical expenses rounded to	-	Rs. 80,000/-
8. Loss of Future Prospects of Life	-	Rs. 50,000/-

		RS.3,00,000/-

3. Learned counsel appearing for the appellant submits that the Tribunal has awarded a sum of Rs.90,000/- towards 45% disability, which is on the higher side. He further submits that the Tribunal has taken the income of the injured at Rs.4,500/- per month and awarded a sum of Rs.20,000/- which is on the higher side. It is therefore submitted that the compensation on the above heads needs to be reduced.

4. A perusal of the award reveals that while quantifying the compensation, in respect of 45% disability, the Tribunal, adopting per percentage method, has awarded a sum of Rs.90,000/- as disability compensation awarding Rs.2,000/- per percentage of disability. The Tribunal has not considered the loss of earning capacity adopting multiplier method. In such circumstances, the contention of the appellant that the disability compensation is on the higher side cannot be sustained. The Tribunal has followed the correct procedure in quantifying the compensation and, accordingly, the compensation awarded under the head disability is confirmed.

5. Insofar as the monthly income of the deceased, which has been fixed by the Tribunal at Rs.4,500/-, it is pertinent to point out that in the case of Syed Sadiq Vs. Deputy Manager, United India Insurance Co. Ltd., reported in 2014 (1) TNMAC 459, the Hon'ble Supreme Court, in the absence of proof of income, has fixed the monthly income of the deceased as Rs.6,500/- per month. However, in the case on hand, the Tribunal has conservatively fixed the monthly income of the claimant only at Rs.4,500/-, which cannot be said to be unreasonable or excessive. Therefore, the contention that the monthly income is fixed at a higher rate also is not liable to be sustained.

6. Insofar as the compensation awarded under the other heads are concerned, a perusal of the same reveals that the Tribunal has applied its mind and has awarded just and reasonable compensation and it cannot be said to be excessive. Therefore, no interference is called for with the well considered award

passed by the Tribunal.

7. For the reasons aforesaid, there being no merits, this appeal is dismissed confirming the award dated 30.10.2013 made in MCOP No.4688 of 2010. No costs. Consequently, connected Miscellaneous Petition is closed.

8. The insurance company is directed to deposit the entire award amount along with interest as quantified by the Tribunal, less the amount, if any, deposited, to the credit of the claim petition within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to 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

arr/GLN

To

1. The Special Subordinate Judge -II,
Motor Accidents Claims Tribunal,
Chennai.
2. The Section Officer, VR Section,
High Court, Madras. (2 Copies)

+1cc to K.J.Sivakumar, Advocate, S.R.No.8087

सत्यमेव जयते

C.M.A. No.236 of 2017

KK(CO)
CS/23/02/18

WEB COPY