

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.24 of 2017

and

C.M.P.No.203 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Railway Station New Road,
Kumbakonam-612 0010 .. Appellant /Respondent

versus

K.Premdoss .. Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 05.04.2016 made in M.C.O.P.No.1287 of 2014 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Cuddalore.

For appellant : Mr.D.Venkatachalam
For respondent : Mr.R.Sreedhar

J U D G M E N T

The Claimant, aged 35 years, a self-employee, met with an accident on 12.02.2014 in which he sustained fracture of right hand and other grievous injuries. Hence, the claimant filed M.C.O.P.No.1287 of 2014, before the Motor Accident Claims Tribunal, Cuddalore, claiming compensation in a sum of Rs. 30,00,000/-.

2. The Tribunal, considering the oral and documentary evidence, awarded a sum of Rs. 6,16,285/-, the break-up of which are as hereunder :-

Pain and sufferings	-	Rs. 30,000/-
Transport Expenses	-	Rs. 15,000/-
Extra Nourishment	-	Rs. 10,000/-
Damage to clothing	-	Rs. 5,000/-
Medical Expenses	-	Rs.2,10,285/-
Future Medical Expenses	-	Rs. 40,000/-

Future Loss of earning	-	Rs.3,06,000/-
(5000x12x17x30/100)		

Total		Rs.6,16,285/-

3. The learned counsel for the appellant contended that having regard to the nature of the job, there will not be any high loss of earning capacity to the claimant and, therefore, the Tribunal ought not to have adopted multiplier method.

4. Per contra, the learned counsel for the claimant submitted that due to disability, the claimant is unable to perform his job as before and, therefore, the Tribunal was justified in adopting the multiplier method. It is further submitted by the learned counsel for the claimant that though the disability has been assessed by the doctor at 60%, however, the Tribunal has fixed the disability only at 30% and, therefore, this is a fit case for enhancement and not a case for reduction of compensation.

5. A perusal of the oral and documentary evidence reveals that the claimant has underwent multiple surgeries in his arm and that plate has been fixed to set right the fracture. The doctor has opined that the claimant would have difficulty in driving the vehicle and that the partial permanent disability is assessed at 60%. Further the medical records reveal that the action of the shoulder has considerably reduced due to the fractures sustained and that inspite of treatment given to the claimant, the medical ailments have not been completely cured and that it has resulted in disability.

6. Considering all the above medical complications suffered by the claimant and further taking into account the disability suffered by the claimant and no documentary evidence has been produced to substantiate the monthly income of the claimant, the Tribunal has fixed the notional income at Rs.5,000/= and adopting a multiplier 17, the loss of earnings capacity has been quantified at Rs.3,06,000/=. Under various other heads, compensation have been awarded, as noticed above.

7. The compensation awarded by the Tribunal in the overall facts and circumstances of the case and on the basis of the evidence on record cannot be said to be excessive or arbitrary. The Tribunal has given clear and cogent reasons for arriving at the said compensation and, therefore, this Court is of the considered opinion that no interference is warranted with the well considered findings rendered by the Tribunal based on which compensation has been awarded.

8. In the result, the appeal is dismissed confirming the Judgment and decree dated 05.04.2016, made in M.C.O.P.No.1287 of 2014, on the file of Motor Accident Claims Tribunal, (Special Subordinate Judge), Cuddalore. Consequently, connected Miscellaneous Petition is closed. However, there shall be no order as to costs.

9. The appellant is directed to deposit the entire award amount as quantified by the Tribunal and confirmed by this Court above, along with interest at 7.5% per annum, less the amount, if any, already deposited, to the credit of M.C.O.P.No.1287 of 2014, on the file of Motor Accident Claims Tribunal, (Special Subordinate Judge), Cuddalore, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimant is permitted to withdraw the amount as ordered by the Tribunal on filing appropriate application.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

arr/GLN

To

1. Motor Accident Claims Tribunal
(Special Subordinate Judge)
Cuddalore.

2. The Section Officer
VR Section
High Court, Madras.

+1cc to Mr.D.Venkatachalam, Advocate SR.No.1972

+1cc to Mr.R.Sreedhar, Advocate SR.No.1738

EV(CO)
GN(22/02/2018)

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