IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2017

CORAM

THE HONOURABLE Dr. JUSTICE. S.VIMALA
C.M.A.No.2269 of 2014
and M.P.No.1 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation
(Salem Division-I) Limited,
No.12, Ramakrishna Road,
Salem – 636 007. ... Appellan/2nd Respondent

versus

1. N.N.Uma Shankar ... 1st respondent/Petitioner
2. M.Sivalingam ... 2nd respondent/1st respondent
(R2 remained ex parte before the Tribunal)

Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 31.01.2012 made in M.C.O.P.No.136 of 2009 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court-IV, Bhavani.

For Appellant : Mr.D.Venkatachalam
For R1 : Mr.C.Kulanthaivel

JUDGMENT

The claimant, Umashankar, aged about 44 years, doing Textile Business and earning a sum of Rs.25,000/- p.m. met with an accident on 13.11.2008 and sustained injuries. Hence, he filed a claim petition in M.C.O.P.No.136 of 2009 on the file of the the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court-IV, Bhavani, claiming compensation of Rs.15,00,000/-.

2. The Tribunal on consideration of oral and documentary evidence, has passed an award for a sum of Rs.10,23,747/-, the break up details of which read as under:

70% permanent disability	-	Rs. 6,30,000/-
Medical Expenses	-	Rs. 3,71,747/-
Pain and suffering	-	Rs. 10,000/-
Extra nourishment	-	Rs. 10,000/-

Transport Expenses	-	Rs. 2,000/-
Total	-	Rs.10,23,747/-

Challenging the quantum of compensation as excessive, the Transport Corporation has filed this appeal.

3. The learned counsel appearing for the appellant Transport Corporation submitted that the claimant has not filed any document to prove his age and income but, the Tribunal has awarded a sum of Rs.6,30,000/- for 70% permanent disability, by adopting multiplier method. As it is a case of injury, the Tribunal ought not to have adopted the multiplier method while calculating the disablement compensation. Hence, the quantum of compensation on the said head requires to be interfered with.

4. A perusal of the order passed by the Tribunal reveals that the claimant has deposed that due to the accident, he sustained a crush injury over the left leg; there is a fracture over the hip, spinal cord and thigh and injuries all over the body. The claimant has further deposed that he was admitted at Ganga Hospital, Coimbatore as in-patient for two months and he underwent surgery nine times. The claimant had also taken physiotherapy treatment from 03.01.2009 to 06.03.2009. The Doctor had issued the disability certificate assessing the disability at 70%.

5. Though it is claimed on the side of the claimant that he was doing a Textile business and running a Power-loom factory for lungies, thereby earning a sum of Rs.50,000/- per month, which was proved by producing Income Tax Returns for the Years 2007-2008, 2008-2009 and 2009-2010, the Tribunal has fixed the monthly income of the injured at Rs.5,000/- holding that the prospects in the business would vary from time to time. Based on Ex.P11-Income Tax Returns, which shows the age of the claimant at 42, the Tribunal fixed the age of the claimant at 42 years and adopting the multiplier of 15, the Tribunal quantified the compensation for 70% disability at Rs.6,30,000/-. The above quantification clearly shows that the Tribunal, based on materials available on record has fixed the income and age of the claimant, and therefore, no interference is warranted. Further, it is to be pointed out that the monthly income is very conservatively fixed and does not require any interference. The Tribunal, keeping in mind the injuries suffered by the claimant, the treatment taken, the period of treatment and the impact of the injuries on the future life of the claimant, has adopted the multiplier method for award of just compensation. Therefore, the adoption of multiplier method cannot be said to be unreasonable or unjustified.

6. Insofar as compensation awarded under other heads are concerned, The Tribunal, considering the medical expenses incurred by the claimant during the treatment period and based on the medical bills produced by the claimant, awarded a sum of Rs.3,71,747/-. Considering the nature of injuries and period of treatment, the Tribunal has awarded a sum of Rs. 10,000/- towards Pain and suffering, Rs.10,000/- towards Extra nourishment and Rs.2,000/- towards Transport Expenses. Considering the percentage of disability at 70%, the compensation awarded under the head pain and sufferings and extra nourishment is too low. Furthermore, the Tribunal has not awarded any compensation towards attendant charges and loss of enjoyment of amenities. Therefore, the compensation awarded by the Tribunal cannot be said to be excessive. In such circumstance, the appeal being devoid of merits deserves to be dismissed.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 31.01.2012 made in M.C.O.P.No.136 of 2009 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court-IV, Bhavani. No costs. Consequently, connected miscellaneous petition is closed.

8. The appellant Transport Corporation is directed to deposit the entire compensation awarded by the Tribunal, less the amount, if any, already deposited, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, to the credit of 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 same directly to the Bank Account of the claimant through RTGS within a period of two weeks thereafter.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

ogy/GLN

To
1. The Motor Accident Claims Tribunal,
   Additional District Judge,
   Fast Track Court-IV,
   Bhavani.

2. The Record Keeper
   High Court, Madras 104(2 copies)

+1 CC to Mr.C. Kulanthaivel, Advocate sr 1498
+1 CC to Mr.D. Venkatachalam, Advocate sr 1966.

VGII(CO)
SP(07/03/2018)