

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.25 of 2017

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

... Appellant/R1 in Tribunal

versus

1.V.Veerababu
2. G.Radhakrishnan

3.Divisional Manager,
M/s.Tata AIG General Insurance Co-limited,
No.1, Commander-in-Chief Road,
Ethiraj Salai, Egmore, Chennai.

... Respondents/Petitioner and
2nd & 3rd Respondent in Tribunal

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.1288 of 2014 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Cuddalore.

For appellant : Mr.D.Venkatachalam
For respondent No.1 : Mr.R.Sreedhar
RR2 &3 Dismissed - before Tribunal

JUDGMENT

Challenging the multiplier method adopted by the Claims Tribunal, for quantifying the compensation for loss of earning capacity, the transport Corporation has filed this appeal.

2. The Claimant Veerababu, aged 42 years, employed as a cook, earning a sum of Rs.25,000/- per month, met with an accident on 12.02.2014. Due to which, he sustained grievous injuries and also fracture in wrist right hand and right femur. Hence, the Claimant filed the Claim Petition in M.C.O.P.No.1288 of 2004, on the file of Motor Accidents Claims Tribunal, Cuddalore seeking compensation for a sum of Rs. 30,00,000/-

3. The Tribunal, considering the oral and documentary evidence quantified the compensation at Rs. 3,17,656/-, the break-up of which are as hereunder:

Pain and suffering	-	Rs.25,000/-
Extra Nourishment	-	Rs.10,000/-
Transportation	-	Rs.15,000/-
Damage to clothing	-	Rs. 5,000/-
Medical expenses as per bills		Rs.10,656/-
Loss of earning Capacity (500x12x14x30%)	-	Rs.2,52,000/-
Total		Rs.3,17,656/-

4.The learned counsel for the appellant contended that the Tribunal was not justified in adopting multiplier method while quantifying the compensation under the head Loss of Earning, as the Tribunal has quantified the disability only at 30%.

5. In order to appreciate the contentions advanced by the learned counsel for the appellant, a look into the avocation of the claimant at the relevant point of time would be relevant.

6. The claimant was stated to be working as Kitchen Master-cum-Maintenance Supervisor at Hotel Royal, Cuddalore. As per the Doctor, P.W.4, who treated the claimant him and issued the disability certificate, has opined that since the claimant has sustained injuries on the hand and hip, it would be difficult for him to carry out his day-to-day avocation. The doctor has assessed the disability of the claimant at 60%.

7. Though the doctor, P.W.4 has assessed the disability at 60%, however, the Tribunal, conservatively has fixed the disability only at 30%. Further, the Tribunal has fixed the monthly income of the claimant only at Rs.5,000/- per month, though it was claimed by the claimant that he was earning a sum of Rs. 25,000/= per month. Fixing the monthly income of the claimant at Rs.5,000/= and assessing the disability at 30%, adopting the multiplier method, the Tribunal has quantified the "Loss of Earnings at Rs.2,52,000/= (Rs.5000 X 12 X 14 X 30%). In spite of the fact that the disability has been quantified at 60% and the monthly income was claimed to be Rs.25,000/=-, the Tribunal has applied its mind to the injuries sustained by the claimant and also on the basis of the materials placed before it, has fixed the monthly income at Rs.5,000/= and has awarded a sum of Rs.2,52,000/=-, which cannot be said to be unreasonable or

excessive. Further, adoption of multiplier method by the Tribunal is fully justified in the facts of the present case. Even on the other heads, the Tribunal has awarded just and reasonable compensation. Therefore, this Court is of the considered view that no interference is called for with the award passed by the Tribunal.

8. In the result, the appeal stands dismissed, confirming the Judgment and Decree dated 05.04.2016, passed by the Motor Accident Claims Tribunal (Special Subordinate Judge), Cuddalore, made in M.C.O.P.No.1288 of 2014. 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.1288 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.R.Sreedhar, Advocate SR.No.1736

C.M.A. No.25 of 2017

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