

.IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.2807 of 2017
and C.M.P.No.16020 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation (VPM) Limited,
No.3/137 Salamedu, Vazhudhareddy Post,
Villupuram 605 602 ... Appellant

...vs...

M.Ganesan ... Respondent/claimant

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 11.07.2016 made in M.C.O.P.No.3464 of 2011 on the file of the Motor Accident Claims Tribunal, V Small Causes Court, Chennai.

For Appellant : Mr. K.J.Sivakumar
For Respondent : Mr. K.Varadha Kamaraj

J U D G M E N T

The Appeal has been filed by the Transport Corporation challenging the quantum of compensation awarded to the Injured.

2. The injured, M.Ganesan, aged 60, a retired conductor of Metropolitan Transport Corporation as well as Rice Merchant, earning a sum of Rs.10,000/- per month, met with an accident on 24.03.2011 and sustained fracture of both bones on left leg, fracture of left ankle and multiple injuries all over the body. In respect of the injuries sustained, he claimed a sum of Rs.6,00,000/- as compensation. The Tribunal, by the award, dated 11.07.2016, awarded a sum of Rs.5,04,023/-, rounded off to Rs.5,04,000/- under the following breakup details:-

Transportation and nourishing food -	Rs. 10,000/-
Attendant charges -	Rs. 5,000/-
Medical bills -	Rs.2,45,023/-
Disability -	Rs.1,20,000/-
Loss of earning -	Rs. 24,000/-
Damages for pain, suffering and trauma -	Rs. 50,000/-

Loss of amenities	-	Rs. 50,000/-

Total	-	Rs.5,04,023/-
rounded		Rs.5,04,000/-

3. Challenging the award as excessive, the Transport Corporation has filed this Appeal.

4. It is necessary to find out the age, employment and impact of the injury upon the earning capacity of the claimant, in order to appreciate the contention that the disablement compensation is high.

5. The Tribunal has considered the claim under each and every head separately. Considering the fact that the claimant had been hospitalized for twenty days, the Tribunal has awarded a sum of Rs.10,000/- towards transportation and extra nourishment and Rs.5,000/- towards attendant charges. The medical expenses have been awarded at Rs.2,45,023/-, which is supported by bills.

6. So far as the disablement compensation awarded is concerned, the Doctor has certified the percentage of disablement at 65%, but considering the fact that the certificate was issued by the Doctor, who did not treat the claimant, the Tribunal has chosen to take the disablement at 40%. Awarding a sum of Rs.3,000/- per percentage of disablement, a sum of Rs.1,20,000/- has been awarded.

7. Considering the period of treatment and the nature of injuries sustained, pain and sufferings had been awarded at Rs.50,000/- and loss of enjoyment of amenities had been awarded at Rs.50,000/-.

7.1. The learned counsel for the appellant / Transport Corporation would submit that the amount passed under these two heads are excessive and the pain and sufferings and loss of amenities can be awarded only at Rs.25,000/-, each, totaling to Rs.50,000/-, considering the fact that the claimant has been as inpatient only for twenty days.

7.2. The contention raised by the learned counsel for the appellant with regard to the proportionate reduction on pain and sufferings and loss of enjoyment of amenities are accepted and there will be a reduction at the rate of Rs.25,000/- on each count. Thus, there will be a reduction in the total amount of compensation awarded by the Claims Tribunal by Rs.50,000/-.

8. In the result, the Civil Miscellaneous Appeal is partly-allowed, by reducing the quantum of compensation from Rs.5,04,000/- to Rs.4,54,000/-, payable with interest at 7.5% per annum from the date of petition till the date of deposit.

9. The appellant / Transport Corporation is directed to deposit the amount of compensation, as determined by this Court, along with interest at 7.5% per annum, from the date of petition till the date of deposit, less the amount already deposited, if any, 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 50% of the award amount to the savings bank account of the claimant and the balance 50% shall be deposited in any one of the Nationalized Banks, in a Fixed deposit, until further orders and the interest accrued thereon shall be withdrawn by the claimant / respondent, once in three months, directly from the Bank. Consequently, the connected CMP is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

srk
To

1. Motor Accident Claims Tribunal, V Small Causes Court,
Chennai.

2. The Section Officer, V.R.Section, Madras High Court,
Chennai 104

+ 1 cc to M/s. K.J. Sivakumar, Advocate Sr.70284

+ 1 cc to M/s. K. Varadhakamaraj, Advocate Sr.69281

C.M.A.No.2807 of 2017
& CMP No.16020 of 2017

RJI (CO)
EU(14/05/2018)

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