

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 23.02.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.355 of 2017

&

C.M.P.No.2549 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam Division-II) Periya Melaku Parai,
Trichirapalli Town and Taluk
and Munsif and District.

.. Appellant/Respondent

Versus

R.Dinesh

..Respondent/Petitioner

Prayer:Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Judgment and Decree dated 15.4.2016 made in M.C.O.P.No.99 of 2014 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Tiruvarur.

For appellant : Mr.D.Venkatachalam

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal, in M.C.O.P.No.99 of 2014, the Tamil Nadu State Transport Corporation (Kumbakonam Division - II) has filed this Civil Miscellaneous Appeal.

2.The Claimant, Mr.Dinesh, aged 26 years, employed as Technical Assistant, earning a sum of Rs.20,000/- per month, met with an accident on 09.11.2013 and sustained fracture in right leg apart from head injury and other grievous injuries. Hence, he filed a Claim Petition in M.C.O.P.No.99 of 2014 seeking compensation for a sum of Rs.22,00,000/- .

3. The Tribunal, after consideration of the submissions made on either side and also on considering the oral and documentary evidence has awarded a total compensation of

Rs.17,40,000/- together with interest at the rate of 7.5% per annum. The break-up details of the same are as under:

Loss of Earning Capacity	-	Rs.	10,61,424/-
For Medical Expenses	-	Rs.	5,97,526/-
For Extra Nourishment Expenses	-	Rs.	25,000/-
For Pain and Sufferings	-	Rs.	40,000/-
For transport Expenses	-	Rs.	15,000/-
For damage to clothing and articles-	-	Rs.	2,000/-

Total		Rs.	17,40,950/-

Challenging the quantum of compensation awarded as excessive, the present appeal has been filed by the Transport Corporation.

5. The main contention of the learned counsel for the appellant is that the Tribunal ought not to have adopted the multiplier method while quantifying the Loss of earning capacity. He further submitted that the amount of compensation awarded by the Claims Tribunal is excessive and the same needs to be reduced.

6. In order to appreciate this contention, it is necessary to find out the nature of injury and disability suffered by the claimant. The claimant suffered fracture in the right knee bones viz., Tibia and Fibula and he also suffered removal of 3/4th Fibula bone and plastic surgery was performed. The Claimant has taken treatment for a period of three months as in patient. P.W.2, the Doctor who examined the claimant has issued the disability certificate certifying the disability @ 54%.

7. The Tribunal has relied upon Ex.P16- Certificate from the employer of the claimant and Exs.P-17 to Ex.P-20, Educational certificates for the purpose of quantifying the compensation towards loss of earning capacity. Ex.P-16, the certificate issued by the employer reveals that annual salary of the claimant was Rs.1,68,000/-. Based on the above, the Tribunal, adopting multiplier method has quantified the compensation. However, no evidence is available on record to show that whether the claimant subsequently suffered loss of employment or that he was reverted to a lesser post and, thereby, suffered loss of earnings.

8. In such circumstances, the question that arises for consideration is whether the Tribunal is justified in adopting the multiplier method while quantifying loss of earning capacity

9. The Claims Tribunal, after taking into account annual

income at Rs.1.68,000/-, by deducting 50% towards personal expenses and by adding 30% towards future prospects and by adopting multiplier 18 has quantified a sum of Rs.19,65,600/- and calculating 54% towards functional disability has awarded a sum of Rs.10,61,424/- towards Loss of Earning capacity. It is seen that the Tribunal has taken only 30% towards future prospective increase in income which is very low, since the claimant is aged 27 years. A perusal of the finding rendered by the Tribunal and the reasonings given by the Tribunal to arrive at the said finding clearly show that the Tribunal, after completely analysing the evidence has adopted multiplier method and quantified the compensation. Further, the percentage of disability taken is also almost half of what has been certified as the disability by the Doctor. In such circumstances, it cannot be said that the Tribunal has not applied its mind and had erroneously adopted multiplier method. The Tribunal has carefully considered the issue and had thereafter adopted multiplier method, which does not require any interference at the hands of this Court. The deduction of 50% towards personal expenses is unjustified, unwarranted and illegal.

10. Insofar as the compensation awarded under the other heads are concerned, considering the nature of injuries sustained, the period of treatment and the impact of the injuries on the earning capacity of the claimant, the Tribunal has awarded nominal sums under extra nourishment, pain and sufferings, transport expenses and damage to clothing and, the compensation under those heads does not call for any interference. The compensation towards medical expenses is supported by medical bills and, therefore, a sum of Rs.5,95,526/- has been awarded. However, the Tribunal has not given any compensation towards loss of enjoyment of amenities.

11. Considering the overall circumstances and the reasonings adduced by the Tribunal to award the compensation, this Court is of the considered view that no interference is warranted with the well considered findings arrived at by the Tribunal. Accordingly, the compensation awarded cannot be said to be excessive and, accordingly, the same is confirmed.

12. For the reasons aforesaid, this Court finds no reason to interfere with the award of the Claims Tribunal. Hence, this Civil Miscellaneous Appeal is dismissed, confirming the Judgment and Decree of the Claims Tribunal, dated 15.04.2016, made in M.C.O.P.No.99 of 2014. Consequently, connected Miscellaneous Petition is closed.

13. The appellant/Transport Corporation is directed to deposit the entire award amount as quantified by the Tribunal along with interest and costs, less the amount, if any, already

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 amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar (CS VI)

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arr/GLN
Sub Assistant Registrar

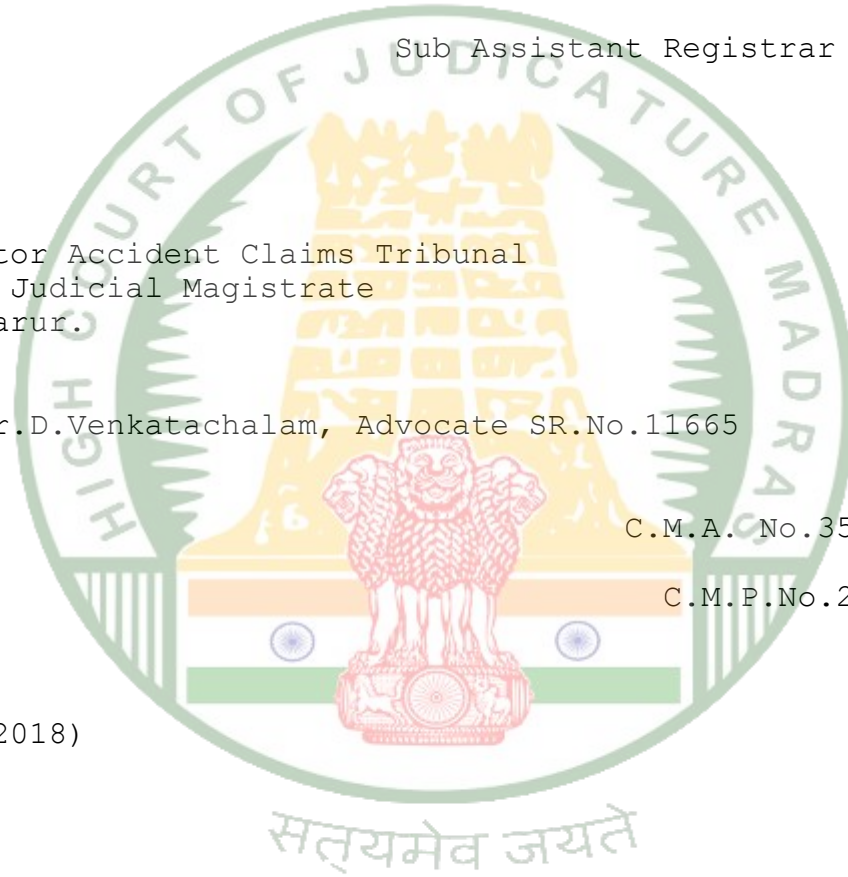
To

1. The Motor Accident Claims Tribunal
Chief Judicial Magistrate
Tiruvavarur.

+1cc to Mr.D.Venkatachalam, Advocate SR.No.11665

C.M.A. No.355 of 2017
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MR (CO)
GN (12/04/2018)



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