

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 08.02.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No. 402 of 2017

&

C.M.P. No.2845 of 2017

The Managing Director,
Metropolitan Transport Corporation (Chennai) Ltd,
Pallavan Salai, Chennai-2

.. Appellant/Respondent

Versus

M. Saroja

.. Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 21.11.2013 made in M.C.O.P.No.3701 of 2011 on the file of the Motor Accident Claims Tribunal, (II nd court of Small Causes) Chennai.

For appellant : Mr. S.Sivakumar

J U D G M E N T

Challenging the finding of negligence as well as quantum of compensation awarded by the Claims Tribunal in M.C.O.P.No.370 of 2011, the Transport Corporation has filed this Appeal.

2. The claimant, Saroja, aged 72 years, a vegetable vendor, earning a sum of Rs.200/- per day, met with an accident on 28.07.2010 due to which she sustained grievous injuries and also amputation of left leg above the knee. Hence, she filed a claim petition in M.C.O.P.No.3701 of 2011, seeking compensation of Rs.10,00,000/-.

3. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs. 6,23,000/- under the following heads :-

Loss of income for 6 months	-	Rs. 36,000/-
Transportation	-	Rs. 10,000/-
Extra nourishment	-	Rs. 10,000/-
Damage to clothes	-	Rs. 1,000/-
Attender charges	-	Rs.1,50,000/-
Loss of amenities in life	-	Rs. 50,000/-
Mental agony to the petitioner-	-	Rs. 50,000/-
Pain and suffering	-	Rs.1,00,000/-
Loss of earning capacity		
Rs.6,000x12x5x60%	-	Rs.2,16,000
		Rs.6,23,000/-

4. The learned counsel for the appellant submits that the compensation awarded by the Tribunal is very high and the same needs to be reduced. It is further submitted that the Tribunal erred in holding that the driver of the appellant bus drove in a rash and negligent manner and caused the accident.

5. A perusal of the award passed by the Tribunal reveals that the reliance was placed on Ex.P2- Discharge summary wherein it is stated that the claimant has sustained crush injury of left leg with compound fracture of both bone in the left leg and therefore the above knee was amputated. The claimant had undergone surgeries on 29.07.2010 and 06.09.2010. Reliance was also placed on Ex.P5-disability certificate issued by P.W.3- the Doctor, wherein the doctor has assessed the disability at 60%. The Tribunal, considering the nature of injuries sustained and the period of treatment has awarded the compensation.

6. The Tribunal, fixing the income of the claimant at Rs.6,000/- p.m. and adopting a multiplier of 5, has quantified compensation in a sum of Rs.2,16,000/- towards loss of earning capacity. The said quantification is just and reasonable and cannot be said to be excessive. It is also pertinent to note that grievous injuries have been suffered by the claimant and surgeries were also performed. Definitely, the claimant would have suffered much pain and, therefore, the compensation awarded at Rs.1,00,000/- towards pain and suffering also cannot be said to be on the higher side. Similarly, considering the period of hospitalisation for the injuries sustained and the necessity for an attender to be available, the Tribunal has awarded compensation of Rs.1,50,000/-, which is also just and reasonable and warrants no interference.

7. Insofar as the compensation awarded under the other heads are concerned, the amounts are not on the higher side and the compensation have been awarded based on materials available on record and, accordingly, the same are confirmed.

8. As far as liability is concerned, the Claims Tribunal, on a careful perusal of the Ex.P1 - First Information Report and Ex.P6- Charge Sheet and on considering the evidence of R.W.1- the driver of the appellant Corporation, has rightly fixed the negligence on the part of the driver of the appellant Corporation. No other evidence contradicting the materials available on record has been placed by the appellant to come to a different conclusion. Therefore, the finding of negligence rendered by the Tribunal does not call for any interference.

9. For the reasons aforesaid, the appeal lacks merits and, accordingly, the same is dismissed confirming the Judgment and Decree of the Claims Tribunal in M.C.O.P.No.3701 of 2011 dated 21.11.2013. Consequently, connected Miscellaneous Petition is closed.

10. The Appellant/Transport Corporation is directed to deposit the entire award amount along with interest from the date of petition till the date of deposit as awarded by the claims Tribunal, 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 judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

arr/GLN

To

1. The Motor Accident Claims Tribunal,
(II Court of Small Causes), Chennai.
2. The Section Officer, VR Section,
High Court, Madras.

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