

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.02.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No. 418 of 2017

and

C.M.P. Nos. 18712, 20599 of 2005 & 1231 of 2006

Tamil Nadu State Transport
Corporation Limited,
Rep. By its Managing Director,
Salem.

..Respondent/Appellant

(Amended as per order dated 04.01.2006
in C.M.P.No.20599 of 2005 in
CMA.Sr.No.129157 of 2004)

Versus

1. Mr.Viswanathan

..Petitioner/Respondent

2. Mr. Ganesan

3. United India Insurance
Company Limited,
Dharmapuri.

..2nd & 3rd Respondents/
respondent

Appeal filed under Section 173 of the Motor Vehicles Act,
1988 against the Judgment and Decree dated 09.03.2004 made in
M.C.O.P. No.56 of 1999 on the file of Motor Accident Claims
Tribunal, (Principal Sub Judge) Tiruvannamalai.

For appellant : Mr. R. Arunmozhi

For Respondents: No appearance

J U D G M E N T

Challenging the finding of negligence and quantum of
compensation awarded by the Claims Tribunal, in M.C.O.P.No.56
of 1999, dated 09.03.2004, the Transport Corporation has
preferred this Civil Miscellaneous Appeal.

2. The Claimant, Viswanathan aged 35 years, engaged in
business and earning a sum of Rs.7,000/- per month met with an
accident on 07.07.16 due to which he sustained fracture in the
right leg. Hence, he filed a claim petition in M.C.O.P.No.56
of 1999, seeking compensation for a sum of Rs.2,37,000/-.

3. The Claims Tribunal, on consideration of oral and
documentary evidence, has awarded a sum of Rs.65,617/-. The
break-up details of the same are as under:

Disability compensation	-	Rs. 5,000/-
Medical expenses	-	Rs. 617/-
Loss of earnings	-	Rs.36,000/-
Annual loss of income	-	Rs.24,000/-

		Rs.65,617/-

3. The learned counsel for the appellant submits that the compensation awarded by the Claims Tribunal is very high and the same needs to be reduced. He further submits that the Tribunal has erred in fixing the negligence on the driver of the appellant-Corporation, which is not supported by evidence.

4. A perusal of the award passed by the Tribunal reveals that P.W.2, the Doctor who examined the claimant and issued disability certificate Ex.P8, has assessed the disability @ 35%. However, the Claims Tribunal has fixed the disability at 10%. The said assessment by the Tribunal cannot be said to be erroneous as a perusal of the reasonings given by the Tribunal shows that the Tribunal has taken into consideration the injuries sustained by the claimant and the treatment taken to arrive at the said fixation.

5. It is further evident from the evidence of P.W.1 that though the claimant has deposed that his age is 35, however, the Tribunal has fixed his age at 40 as no documentary evidence has been produced to prove the age. Further, it is pertinent to note that though it was claimed that the claimant was earning a sum of Rs.7,000/- per month, in the absence of any documentary evidence to prove the same, the Tribunal fixed the income at Rs.2,000/- and by adopting multiplier 15, quantified the loss of earning capacity at Rs.36,000/-. The said approach of the Tribunal on the basis of the documentary evidence cannot be said to be erroneous. Further, the amount awarded as compensation cannot be termed as excessive, as the reasonings given by the Tribunal to arrive at the said amount is based on evidence on record. The compensation awarded under other heads such as Medical expenses, and disability compensation, are also not excessive and have been conservatively quantified by the Tribunal. In such circumstances, this Court is of the view that the award passed by the Tribunal requires no interference. The amount of Rs.24,000/- towards annual loss of income would be distributed towards transport expenses, extra nourishment, cost of attendant & Loss of income for 3 months.

6. As far as liability is concerned, the Tribunal, on consideration of Ex.P1, First Information Report and based on the counter affidavit filed by the appellant before the Tribunal, has rightly come to the conclusion that the driver of the Transport corporation alone was responsible for accident. In the absence of any counter evidence adduced by the Transport corporation to show that the bus belonging to the Corporation was not responsible for the accident, the finding rendered by the Tribunal cannot be interfered with.

7. In the result, this Civil Miscellaneous Appeal stands dismissed, confirming the Judgment and decree of the Claims Tribunal, in M.C.O.P.No.56 of 1999. No costs. Consequently, connected Miscellaneous Petitions are closed.

8. The appellant Transport Corporation is directed to deposit the entire compensation amount awarded by the Tribunal, less the amount if any, already deposited, along with interest at the rate of as quantified by the Tribunal 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.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

arr/GLN

To

1. The Principal Subordinate judge,
(Motor Accident Claims Tribunal) Tiruvannamalai.
2. The Section Officer, VR Section, High Court, Madras.

C.M.A. No. 418 of 2017

VGI (CO)
EU(20/04/2018)

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