

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.436 of 2017

and C.M.P.No.2962 of 2017

The Managing Director,
Metropolitan Transport
Corporation Ltd.
Chennai - 2.

... Appellant / Respondent

versus

S.Ramachandran ... Respondent / Petitioner

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 25.09.2013 made in M.C.O.P.No.4722 of 2010 on the file of the Motor Accident Claims Tribunal (II Small Causes Court), Chennai.

For Appellant : Mr.S.Sivakumar
For Respondent : Mr.Muthu Visakan

JUDGMENT

The claimant S.Ramachandran, aged about 28 years, a Plumber by profession (self employment), earning a sum of Rs.300/- per day, met with an accident on 11.09.2010 and sustained injuries. Because of this, he filed a claim petition in M.C.O.P.No.4722 of 2010 on the file of the Motor Accident Claims Tribunal (II Small Causes Court), Chennai, claiming compensation of Rs.20,00,000/-.

1.1. As against the claim made, the Tribunal has awarded a sum of Rs.6,87,000/- as compensation, payable by the Transport Corporation, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.

1.2. Challenging the quantum of compensation as excessive, the Transport Corporation has filed this appeal.

2. Now, the issue to be decided is whether the quantum of compensation awarded by the Tribunal is excessive or not?.

2.1. It is necessary to look into the break-up details of the compensation:

Loss of income for		
12 months	-	Rs. 60,000/-
Transportation	-	Rs. 25,000/-
Extra nourishment	-	Rs. 20,000/-
Damage to clothes	-	Rs. 1,000/-
Attender charges	-	Rs. 25,000/-
Loss of amenities of life-		Rs. 50,000/-
Loss of matrimonial life	-	Rs. 50,000/-
Pain and suffering	-	Rs.1,50,000/-
Loss of earning capacity		
Rs.5,000 x 12 x 17 x 30%	-	Rs.3,06,000/-
Total	-	Rs.6,87,000/-

2.2. The petitioner sustained fracture of superior pubic rami left and fracture of inferior pubic rami right, for which, diversion loop sigmoid colostomy (a surgical operation in which the colon is shortened to remove a damaged part and the cut end diverted to an opening in the abdominal wall - example "a colostomy bag" has been done on 02.10.2010. The petitioner also sustained urethra rupture, for which, urinary extravasation (Extravasation of urine refers to the condition where an interruption of the urethra leads to a collection of urine in other cavities, such as the scrotum or the penis in males) done; during the treatment period, the petitioner developed pressures sores and bed sores; hence, he was admitted in the hospital on 17.05.2011 and discharged on 13.06.2011 and thereafter, he took continuous treatment till 07.07.2011, during that period, colostomy closure has been done; the Doctor has assessed the disability at 75%.

3. It is relevant to point out that though the doctor has assessed the disability at 75%, the Tribunal has taken the disability at 30% and awarded the compensation at Rs.3,06,000/- (Rs.5,000 x 12 x 17 x 30%) towards loss of earning capacity. The claimant suffered urethra rupture, for which, urinary extravasation has been done and for abdominal injury causing tear of the small intestine, repair and colostomy has been done. The claimant has also suffered lacerated injury in the back, for which, muscle flap cover and skin grafting has been done. It is alleged that the petitioner walks with limping and he finds difficulty with wide leg movement. Therefore, the loss of earning capacity should be taken at 75%. Further, the claimant was aged about 28 years at the time of accident. Due to the injuries, his matrimonial life would be totally affected. Hence, the amount awarded by the Tribunal cannot be said to be excessive.

4. Accordingly, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 25.09.2013 passed in M.C.O.P.No.4722 of 2010 by the Motor Accident Claims Tribunal (II Small Causes Court), Chennai.

5. The Transport Corporation is directed to deposit the entire amount of compensation, less the amount already deposited if any, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimant is permitted to withdraw the same. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The II Judge, Motor Accident Claims Tribunal
Court of Small Causes,
Chennai.

C.M.A.No.436 of 2017

RR (CO)
TR(22/11/2017)

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