

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.627 of 2017

The Managing Director,
Tamilnadu State Transport
Corporation Limited,
(Kumbakonam Division)
Railway Station New Road,
Kumbakonam.

... Appellant /1st Respondent

versus

1.Palanisamy ... 1st respondent / claimant

2.C.Sanmugam ... 2nd respondent / 2nd respondent

3.M/s.United India
Insurance Co. Ltd.,

Nethaji Salai, Cuddalore. 3rd respondent / 3rd respondent

(R2 and R3 are given up)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 21.01.2011 made in M.C.O.P.No.1017 of 2007 on the file of the Motor Accident claims Tribunal cum Principal Subordinate Judge, Cuddalore.

For Appellant : Mr.V.S.Vijay Veliappan

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JUDGMENT

The claimant, Palanisamy, aged about 28 years, working as a Loadman, earning a sum of Rs.4,500/- per month, met with accident on 23.12.2006 and sustained grievous injuries, in respect of which, he filed a claim petition in M.C.O.P.No.1017 of 2007 before the Motor Accident claims Tribunal cum Principal Subordinate Judge, Cuddalore, claiming compensation of Rs.3,00,000/-

1.1. As against the claim made, the Tribunal has granted a sum of Rs.1,10,000/-. The break-up details of the compensation read as under:

Pain and sufferings	-	Rs. 25,000/-
Extra nourishment	-	Rs. 10,000/-
Transport charges	-	Rs. 10,000/-
Loss of earnings for five months	-	Rs. 10,000/-
Disability (20%)	-	Rs. 40,000/-
Medical expenses	-	Rs. 15,000/-
Total	-	<u>Rs.1,10,000/-</u>

2. The grievance of the learned counsel for the appellant is that the amount awarded by the Tribunal is disproportionate to the injury sustained.

3. In order to find out whether there is any justification for the contention raised, it is necessary to look into the details of the injury suffered by the claimant.

4. A perusal of the award passed by the Tribunal would go to show that the Doctor, who treated the claimant, stated that the injury is the grievous injury; the injured has taken the treatment from 23.12.2006 to 25.12.2006; the disablement has been certified as 20% on account of malunion of bones of 3rd finger.

4.1. The Tribunal has relied upon the decision reported in 2007 (6) MLJ 580, where under, it has been held that the age of the claimant shall play an important role, while awarding compensation for permanent disablement.

4.2. The injured was aged 28 years at the time of accident and he had been doing the job of Loadman and earning a sum of Rs.4500/-. The disablement suffered by the claimant on account of fracture in the finger, would have a direct impact in his job as Loadman. However, the Tribunal has taken only the modest estimate of monthly income of the injured at Rs.2000/- and awarded disablement (20%) compensation at the rate of Rs.2,000/- per percentage of disability. The Tribunal has awarded loss of income for a period of five months only.

4.3. It is relevant to point out that the Tribunal has not awarded compensation towards loss of earning capacity, by adopting the multiplier method of quantification, but has awarded only disablement compensation, having regard to the fact

that disablement would be only for few years. The compensation on account of loss of enjoyment of amenities is not awarded. Hence, the amount awarded by the Tribunal cannot be said to be excessive.

5. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 21.01.2011 passed in M.C.O.P.No.1017 of 2007 by the Motor Accident claims Tribunal cum Principal Subordinate Judge, Cuddalore.

6. The Transport Corporation is directed to deposit the entire award amount, 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, the claimant is entitled to withdraw the same. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident claims Tribunal
cum Principal Subordinate Judge,
Cuddalore.

2. The Record Keeper,
V.R.Section,
High Court,
Madras.

सत्यमेव जयते

+1cc to M/s.V.S.Vijay Veliappan, Advocate, S.R.No.10626

C.M.A.No.627 of 2017

VD(CO)
CU(11/07/2017)