IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.02.2017

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THE HON'BLE Dr.JUSTICE S.VIMALA

C.M.A.No.663 of 2017
and C.M.P.No.3716 of 2017

The Metropolitan Transport Corporation Ltd.,
Rep. by its Managing Director,
Anna Salai, Chennai-2. ... Appellant

Vs.

R.Anbalagan ... Respondent

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 28.11.2013 made in M.C.O.P.No.5606 of 2011 on the file of the Motor Accident Claims Tribunal, [III Court of Small Causes], Chennai.

For Appellant : Mr.S.Sivakumar

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JUDGMENT

The claimant, Anbalagan, aged 53 years, a Security Guard, earning a sum of Rs.7,000/- per month, met with an accident on 05.10.2011, in which he sustained injuries. Therefore, he filed a claim petition claiming compensation in a sum of Rs.6,00,000/-.

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2.The Tribunal, considering the injuries suffered by the claimant, on a consideration of oral and documentary evidence, awarded compensation in a sum of Rs.2,93,000/- under the following heads :

i. Loss of income	-	Rs. 30,000/-
ii. Transport to hospital	-	Rs. 10,000/-
iii. Extra nourishment	-	Rs. 10,000/-
iv. Medical expenses	-	Rs.1,25,000/-
v. Attender charges	-	Rs. 18,000/-
vi. Pain and sufferings	-	Rs. 30,000/-
vii. Permanent disability	-	Rs. 70,000/-
Total		Rs.2,93,000/-

Challenging the award as excessive, the Transport Corporation has filed this appeal.

3.Though very many grounds have been raised in the appeal assailing the order of the Tribunal, however, at the time of argument, learned counsel appearing for the appellant restricted his argument only insofar as the quantum of compensation awarded by the Tribunal and, therefore, this Court is dealing only with the said issue pertaining to quantum of compensation.

4.In order to appreciate the contention advanced above, it is necessary to have a perusal of the details of the injuries and the period of treatment undergone by the claimant. It is also to be pointed out that the claimant is said to be a security guard and whether the injuries sustained

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by the claimant would affect his earning capacity.

5.At the time of accident, the claimant was aged 53 years and he suffered multiple injuries all over the body. Though the Tribunal fixed the age of the deceased at 57 years on the basis of documentary evidence, fixed the income of the claimant at Rs.6,000/-. Taking into account the injuries sustained by the claimant and the difficulties faced by the claimant in discharging his day-to-day activities and also the impact of the injuries on the future life of the claimant, the Tribunal, for the 35% disability suffered by the claimant, adopted percentage method and quantified the compensation at Rs.70,000/- by fixing Rs.2,000/= per percentage of disability. The contention of the appellant that the percentage of disability fixed is on the higher side as the disability suffered by the claimant does not hamper his earning power is totally misconceived. On the basis of medical opinion, the Tribunal having analysed the evidence and fixed the disability at 35%, and has further come to the conclusion that there is definitely loss of earning, the contention of the appellant to the contra, without any material cannot be sustained. The said approach of the Tribunal, in the considered opinion of this Court, cannot be found fault with.

6.Insofar as the award under the other heads are concerned, a careful perusal of the award reveals that the Tribunal has conservatively

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awarded compensation under all the other heads, which are just and reasonable and cannot be termed to be excessive.

7.For the reasons aforesaid, there being no merits in the appeal, it is liable to be dismissed. Accordingly, the appeal is dismissed confirming the award passed by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

8.The appellant/Transport Corporation is directed to deposit the entire award amount along with interest at 7.5% per annum from the date of petition till the date of deposit, 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/respondent through RTGS within a period of two weeks thereafter.

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Index : Yes/No
Internet : Yes/No
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To

1.Motor Accident Claims Tribunal
(III Court of Small Causes)
Chennai.

2.The Section Officer,
V.R.Section, High Court, Madras.

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Dr.S.VIMALA, J.

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