

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 03.03.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.710 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram Division III) Limited,
Kancheepuram. ... Appellant/Respondent

Versus

E. Sigamani
... Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 05.07.2013 made in M.C.O.P.No.295 of 2008 on the file of the Motor Accident Claims Tribunal, Additional Sub Judge, Chengalpattu.

For appellant : Mr.K.J.Sivakumar

J U D G M E N T

Challenging the finding on negligence as well as the quantum of compensation awarded by the Claims Tribunal, in M.C.O.P.No.295 of 2008, the Transport Corporation has come forward with this Civil Miscellaneous Appeal.

2. The Claimant, E.Sigamani, aged 43 years, a driver, earning a sum of Rs.5,000/- per month met with an accident that took place on 15.12.2008 due to which he sustained Fracture of both bones in the right leg and multiple injuries. Hence, he filed a Claim Petition in M.C.O.P.No.295 of 2008, seeking compensation for a sum of Rs.5,00,000/- .

3. The Claims Tribunal on consideration of oral and documentary evidence has awarded a sum of Rs.1,90,325/- as compensation. The break-up details of the same are as under:

Disability (43.33x2000)	-	Rs.86,660/-
Pain and sufferings	-	Rs.21,665/-
Loss of earnings	-	Rs.60,000/-
Transportation	-	Rs. 5,000/-
Extra Nourishment	-	Rs. 15,000/-
Damage to clothes and watch	-	Rs. 2,000/-

		Rs.1,90,325/-

4. 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. It is his further submission that the Claims Tribunal has erred in fixing the liability on the driver of the appellant alone, which is not sustainable.

5. A perusal of the order passed by the Tribunal reveals that the claimant has marked Ex.P6- disability certificate to show the disability suffered by him. The disability certificate reveals that the claimant has sustained fracture on both bones of the right leg and laceration all over the body. P.W.2 -Doctor also in his evidence has stated that the claimant will not be able to walk fast and is unable to sit or squat for a long time. Considering all the medical factors and the records, P.W.2-Doctor has assessed the disability at 30% for the fracture of segmental bone on right leg, and the second bone and the right leg disability was assessed at 20% and in total the Doctor has assessed the disability @ 50%. The Claims Tribunal on the basis of the decisions of this Court in Kasiammal alias Kasikani Versus Munian and the Managing Director, Tamilnadu State Express Corporation reported in 2012 (1) TN MAC 719 and MDTNSTC Vs. Rajasekar reported in 2009 (2) TNMAC 133 evaluated the dual disability as assessed by the doctor and fixed the total disability at 43.33% $(30 + 20 \times (90 - 30) / 90 = 30 + 1200 / 90 = 30 + 13 = 43)$. The Tribunal fixing Rs.2000/- per percentage of disability, quantified the compensation at Rs.86,660/- (2000×43.33) . On an overall consideration of the manner in which the disability compensation has been quantified by the Tribunal, this Court is of the considered view that the Tribunal has considered the matter in right perspective and has quantified the compensation, and that the multiplier method adopted is also correct and, therefore the compensation arrived at cannot be said to be excessive. Accordingly, the same is confirmed.

6. Insofar as the compensation awarded under the other heads are concerned, the Tribunal, considering the nature of injuries, the treatment taken and the impact of the injuries on the future life of the claimant has awarded just and reasonable compensation and the same cannot be said to be excessive or unreasonable. Accordingly, the same are also confirmed.

7. In the result, this Civil Miscellaneous Appeal is dismissed confirming the Judgment and Decree of the Claims Tribunal, in M.C.O.P.No.295 of 2008, dated 05.07.2013. No costs.

8. The appellant/Transport Corporation is directed to deposit the amount as quantified by this Court above, along with interest and costs as ordered by the Tribunal, less the amount, if any, already deposited, to the credit of the claim petition, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

arr/GLN

To

1. The Motor Accidents Claims Tribunal,
Additional Sub Judge Chengalpattu.

2. The Section Officer, VR Section,
High Court, Madras.

C.M.A. No.710 of 2017

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