

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.754 of 2017

and

C.M.P.No.4093 of 2017

Tamil Nadu State Transport  
Corporation Limited,  
(Erode Division) Limited, Coimbatore  
Rep. by its Managing Director,  
Chennimalai Road,  
Erode - 1.

... Appellant/2<sup>nd</sup>  
Respondent

versus

1. G.Mahaboobkhan

... 1<sup>st</sup> Respondent /  
Petitioner

2. P.Shanmugam

... 2<sup>nd</sup> Respondent / 1<sup>st</sup>  
Respondent

(R2 remained ex parte  
before the Tribunal)

Prayer : This Appeal filed under Section 173 of Motor Vehicles  
Act, 1988, against the Judgment and Decree dated 28.09.2012 made  
in M.C.O.P.No.221 of 2011 on the file of the Motor Accident  
Claims Tribunal, Chief Judicial Magistrate, Erode.

For Appellant : Mr.S.V.Vasanth Kumar  
For R1 : Mr.A.K.Kumarasamy

JUDGMENT

The petitioner Mr.G.Mahaboobkha, aged about 43 years, a Yarn  
Broker, earning a sum of Rs.10,000/- p.m., met with an accident  
on 07.09.2010 and sustained injuries, in respect of which, he  
filed a claim petition in M.C.O.P.No.221 of 2011 before the  
Motor Accident Claims Tribunal, Chief Judicial Magistrate, Erode.

1.1. The Tribunal, after considering the oral and  
documentary evidence, has awarded a sum of Rs.2,85,000/- payable  
with interest at the rate of 9% 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. The learned counsel appearing for the appellant would submit that the quantum of compensation awarded by the Tribunal is very excessive. Hence, it has to be reduced.

3. P.W.2-Orthopedic Surgeon has stated that the petitioner has suffered fractures in the radius and ulna bones in the right arm and another fracture in the left humerus bone and also on internal hemorrhage in the brain; X-ray and MRI scan images show that there was change in the brain tissues, because of the hemorrhage and right wrist movement has been reduced by 20 degrees and the left shoulder movement has also come down; hence, the disability is assessed at 30%.

4. It is stated by the petitioner that due to the injuries in the arm, he could not lift heavy articles and due to the head injury, he is suffering from headache and giddiness.

5. Due to the injuries suffered by the petitioner, his earning capacity would be affected. The Tribunal just awarded Rs.1,60,000/- towards medical expenses as per medical bills, Rs.25,000/- towards loss of income during the treatment period; Rs.1,00,000/- towards permanent disability, loss of amenities and pain and sufferings (all the three heads together)

6. It is to be noted that the Tribunal had not awarded any compensation towards extra nourishment, transportation charges and attendant charges. Hence, amount awarded by the Tribunal cannot be said to be excessive.

7. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 28.09.2012 passed in M.C.O.P.No.221 of 2011 by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Erode.

8. The Transport Corporation is directed to deposit the 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 permitted to withdraw the same. No costs.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,  
Chief Judicial Magistrate,  
Erode.

C.M.A.No.754 of 2017

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