

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.02.2017

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

C.M.A.No.855 of 2017
and C.M.P.No.4297 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
12, Ramakrishna Road,
Salem-636 007. Appellant/Respondent

Vs.

Ussain Respondent/Petitioner/Appellant

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 29.06.2012 made in M.C.O.P.No.338 of 2010 on the file of the Motor Accident Claims Tribunal, [Additional Subordinate Court], Thiruvannamalai.

For Appellant : Mr.P.Paramasivados

J U D G M E N T

The claimant, Ussain, aged 20 years, an agriculturist, earning a sum of Rs.6,000/- per month, met with an accident on 19.10.2009 in which he sustained injuries. Therefore, he filed a claim petition claiming compensation in a sum of Rs.5,00,000/- as compensation.

2.The Tribunal, on consideration of oral and documentary evidence, awarded compensation in a sum of Rs.1,02,000/- under the following heads :-

i. Loss of income for 1 month	-	Rs. 3,000/-
ii.Transport expenses	-	Rs. 3,000/-
iii.Nourishment	-	Rs. 3,000/-
iv.Attender charges	-	Rs. 3,000/-
v. Pain and suffering	-	Rs. 10,000/-
vi.Partial permanent disability [Rs.2000/- per percentage]	-	Rs. 80,000/-
Total		Rs.1,02,000/-

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

3.Learned counsel appearing for the appellant contended that the Tribunal should not have relied upon the evidence of Doctor in order to assess the percentage of disablement. It is further submitted that the Tribunal erred in fixing the disability at 40% and the award of a sum of Rs.80,000/- towards partial permanent disability is excessive and the same requires interference.

4.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.

5.In order to appreciate the contentions 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 an agriculturist whether this disability would affect the earning capacity of the claimant.

6.A perusal of the award passed by the Tribunal reveals that on the side of the claimant, Ex.P2-wound certificate has been marked, which shows the age of the deceased as 20 years which is reflected in the claim petition also. Hence, the Tribunal has fixed the age of the deceased as 20 years. 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 adopting the multiplier method, quantified the compensation under the head partial permanent disability at Rs.80,000/- by fixing the percentage of disability at 40% [Rs.2,000/- per percentage]. 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 40%. The said approach of the Tribunal, in the considered opinion of this Court, cannot be found fault with.

7.Insofar as the award under the other heads are concerned, a careful perusal of the award reveals that the Tribunal has awarded a sum of Rs.3,000/- towards the head loss of income, Rs.3,000/- towards transport expenses, Rs.3,000/- towards nourishment, Rs.3,000/- towards attender charges and Rs.10,000/-

towards pain and suffering, which are just and reasonable and cannot be termed to be excessive.

8.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.

9.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 through RTGS within a period of two weeks thereafter.

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

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To

1. Motor Accident Claims Tribunal,
[Additional Subordinate Court], Thiruvannamalai.

C.M.A.No.855 of 2017

and

C.M.P.No.4297 of 2017

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