

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2017

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THE HONOURABLE Mr.JUSTICE N.AUTHINATHAN

CMA.No.2109 of 2013

and

MP.No.1 of 2013

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Kanchipuram.

...Respondent/Appellant

Vs.

K. Veeramani Senthilnathan,

...Petitioner/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in M.C.O.P.No.171 of 2007, dated 11.07.2012, on the file of the Motor Accidents Claims Tribunal, [Chief Judicial Magistrate,] Chengalpet.

For Appellant : Mr.S.Sairaman

For Respondent : Mr.S.Udayakumar

JUDGMENT

The appeal has been preferred by the Transport Corporation, challenging the quantum of compensation and liability fixed by the Tribunal. The Transport Corporation in M.C.O.P.No.171 of 2007 on the file of the Chief Judicial Magistrate, Chengalpet, is the appellant. The claimant / respondent suffered fracture at femur middle 1/3, fracture of left wrist and right patella, his left little finger was crushed. He sustained abrasion all over his body in an accident that had taken place on 09.04.2001.

2. The claimant examined himself as PW-1. He marked Ex.P1 to P29. The appellant resisted the claim. The claimant alleged that on account of the accident he suffered grievous injuries. He claimed a total compensation of Rs.10,00,000/-. The Tribunal has awarded a total compensation of Rs.5,92,000/- payable with interest at 7.5% per annum with proportionate costs under the various heads as detailed below:

Loss of Earning	-	Rs.	20,000
Transportation	-	Rs.	5,000
Extra nourishment	-	Rs.	10,000
Attendant charges	-	Rs.	4,500
Medical Expenses	-	Rs.	4,30,000
Pain and sufferings	-	Rs.	25,000
Permanent disability-	Rs.		97,500
Total	-	Rs.	5,92,000/-

3. 4. According to the learned counsel for the appellant, on 09.04.2001 while the respondent was proceeding on a two wheeler bearing Reg.No.TN.22-E-2985 he drove the bike in a rash and negligent manner and hit on a bus bearing No.TN-21-N-0492 in a rash and negligent manner. He further submitted that the Tribunal has awarded a sum of Rs.20,000/- under the head of loss of earning and material to show that the claimant was working as a Manager in a Private concern. He would also submit that the claimant/respondent suffered only simple injuries. It is clearly submitted that the amount of compensation award under different heads are on the higher side and hence, the same has to be reduced. According to him, the Tribunal without applying its mind accepted the disability certificate in a routine manner and fixed a sum of Rs.97,500/- which is on the higher side under the head of permanent disability.

4. P1 is copy of the FIR and the driver of the bus has been shown as accused. The oral evidence coupled with the FIR would show that the accident has occurred due to the rash and negligence driving of the driver of the bus. It is significant to note that the respondent has not examined any evidence. The driver of the bus was also not examined. Therefore there is no difficulty in coming to the conclusion that the accident occurred due to the rash and negligence.

5. Learned counsel for the respondent submitted that at the time of accident, the claimant was drawing a salary of Rs.10,000/-, The Tribunal has fixed the monthly salary at Rs.5000/- In the absence of any contra evidence, it cannot be said that the monthly income fixed by the Tribunal is on the higher side. There are materials to show that the claimant was initially admitted to Balaji Hospital, Guindy, Chennai, and he took treatment from 09.03.2001 to 24.04.2001.

6. The Tribunal, based on the evidence of the claimant and doctor and placing reliance on the disability certificate assessed the disability at 75%. There is no contra evidence to reject the evidence adduced on the side of the claimant. Having regard to the date of accident and the age of the claimant, the

Tribunal awarded compensation at the rate of Rs.1,300/- per percentage of disability. It is significant to note that the appellant has not adduced any evidence in support of his case. In the absence of any contra evidence it cannot be said, the award of Rs.97,500/- under this head is excessive.

7. Having regard to the period of hospitalization and the period of rest, the respondent has taken due to the accident, the tribunal award has awarded Rs.20,000/- towards loss of earning. In my considered view, it cannot be said to be on higher side or excessive and hence, the same is confirmed. to the hospital in which the claimant took treatment. Therefore, it cannot be said the amount of Rs.5000/- awarded under the head of transport to hospital is excessive and it is also to be confirmed. Having regard to the period of hospitalization and the nature of injuries suffered by him, this court is inclined to confirm amounts under the heads of nourishment, attendant charges, pain and suffering.

8. In the circumstances of this case, I am of the view that the Tribunal was justified in fixing the compensation at Rs.5,92,000/- and that it does not warrant any interference in the appeal.

9. In the result, the Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

The appellant/Transport Corporation is directed to deposit the award amount of Rs.5,92,000/- (Five Lakhs Ninety Two Thousand only) with interest at 7.5% per annum with proportionate costs, less the statutory deposit, to the credit of M.C.O.P.No.171 of 2007, dated 11.07.2012, on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Chengalpet, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the award amount of the Tribunal with proportionate interest less the amount already withdrawn if any, by making necessary application before the Tribunal.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gv
To

- 1.The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate, Chengalpet.
- 2.The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.S.Sairaman, Advocate Sr.12308
+1cc to Mr.S.Udayakumar, Advocate Sr.12026

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