

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.12.2017

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THE HONOURABLE TMT. JUSTICE S.RAMATHILAGAM

C.M.A.No.3323 of 2008

The Managing Director,
Tamil Nadu State Transport,
Corporation Ltd., North, Coimbatore.

... Appellant/2nd respondent

Versus

1.Rangaraj

2.Lakshmanavel

(given up) ... Respondents/Claimants & 1st respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award made in M.C.O.P.No.640 of 2005 dated 21.03.2006 on the file of the Motor Vehicles Accident Claims Tribunal and III Additional Subordinate Judge at Coimbatore.

For appellant : Mr.S.V.Vasantha Kumar

For R1 : Mr.Ma.P.Thangavel

J U D G M E N T

This Civil Miscellaneous appeal has been filed against the Decree and Judgment passed by the learned III Additional Subordinate Court at Coimbatore, in M.C.O.P.No.640 of 2005 dated 21.03.2006.

2. The Transport Corporation has come forward with this appeal questioning the quantum of compensation awarded by the tribunal in favour of the claimant/first respondent herein.

3. The brief facts of the case which led to the filing of the claim petition is that on 28.10.2004, the first respondent herein was travelling as a pillion rider in the two wheeler bearing registration No.TN37 S 1874. At that time, the bus

bearing registration No.TN38 N 0707 belongs to the appellant Transport Corporation was driven by its driver in a rash and negligent manner and hit the two wheeler from behind. In the impact, the claimant/first respondent sustained grievous injuries. For the injuries sustained in the accident, the first respondent/claimant has filed a claim petition seeking compensation for a sum of Rs.3,00,000/-. In support of the claim petition, the claimant has produced as many as 15 documents.

4. The Transport Corporation resisted the claim petition by filing a counter, particularly with reference to the age and occupation of the claimant.

5. The Tribunal, taking into consideration the documentary evidence particularly Exhibits P-6 to P-15 has come to the conclusion that the claimant is entitled for a total sum of Rs.80,500/- as compensation. The break-up details which are as under:

Medical expenses	:	Rs. 3,000.00
Future medical expenses	:	Rs. 10,000.00
Damage to clothing	:	Rs. 500.00
Grievous Injuries	:	Rs. 10,000.00
Simple Injuries	:	Rs. 3,000.00
Pain and Suffering	:	Rs. 15,000.00
Shock	:	Rs. 10,000.00
Disfigurement	:	Rs. 15,000.00
Extra Nourishment	:	Rs. 5,000.00
Loss of income during treatment:		Rs. 9,000.00
Total	:	Rs. 80,500.00

6. The learned counsel for the Transport Corporation would contend that the compensation amount fixed by the trial Court is contrary to the evidence made available before it. It is the vehement contention of the learned counsel that the amount awarded under the heads: (a) pain and sufferings (b) shock (c)disfigurement are not proportionate to the nature of injuries sustained by the claimant. Therefore, the learned counsel for the Transport Corporation seeks for reduction of the amount awarded by the Tribunal.

7. The learned counsel appearing for the claimant/first respondent would submit that the compensation awarded by the tribunal is fair and reasonable.

8. I heard both sides and perused the materials placed before this Court.

9. On a perusal of the claim petition, it is observed that Ex-P7 is the history of the treatment given to the claimant/ first respondent, Ex-P8 series is the medical bills, Ex-P9 is the Driving Licence of the claimant/first respondent. The claimant is an Auto Driver, and he deposed before the Tribunal. Ex-P2 - the wound certificate, reveals that the claimant/first respondent had sustained fracture and surgery was done by fixing iron rod. Ex-P7 is the discharge summary. The Doctor has assessed the disability at 15%. Ex-P13 is the Doctor Certificate. The claimant/first respondent has also claimed Medical expenses for future treatment, for removal of screws fixed during the surgery, for which, the Tribunal has awarded a sum of Rs.10,000/- as against the claim made. It is also observed that the first respondent/claimant had sustained injuries and out of 5 injuries, two injuries are grievous in nature. The Tribunal has awarded Rs.10,000/- for grievous injuries and Rs.1,000/- each for simple injury.

10. On a perusal of the nature of injuries and the period of treatment given to the claimant, the learned counsel appearing for claimant/first respondent has argued that the amount awarded by the Tribunal under the heads of:- (i) pain & suffering; (ii) shock; and (iii) disfigurement, are not disproportionate. There is a fracture in the mandible area and there is also loss of front tooth, which caused disfiguration to the claimant. He further argued that the Tribunal has assessed and granted a sum of Rs.15,000/- for the Pain & Suffering and the said sum of Rs.15,000/- awarded under that head is not on the higher side and the a sum of Rs.10,000/- awarded towards shock is quite appropriate. The Tribunal, observed that the claimant/first respondent has suffered grievous injuries, apart from the fracture in the mandible, hence he was taking liquid food. Thus, the learned counsel submitted that a sum of Rs.5,000/- awarded towards nourishment is not on the higher side.

11. It is also observed that the claimant is an Auto Driver and definitely, his monthly income would not be less than Rs.3,000/- and hence, the loss of income assessed at Rs.3,000/- p.m for three months at Rs.9,000/- is quite reasonable one.

12. Hence, the award of the Tribunal on the various heads is quite just, reasonable and not excessive, as argued by the learned counsel appearing for the claimant/first respondent. Therefore, this Court is not inclined to interfere with the award passed by the Tribunal. Accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs.

13. It is brought to the notice of this Court that the appellant/Transport Corporation has already deposited 50% of the award amount granted by the Tribunal. The appellant is therefore directed to deposit the balance amount with accrued interest, within a period of 6 weeks from the date of receipt of copy of this judgment. The payment shall be deposited into the S/B account of the claimant.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gmd

To

1.The III Additional Subordinate Judge,
Motor Vehicles Accident Claims Tribunal,
at Coimbatore.

2. The Section Officer,
VR Section,
High Court,
Madras-104.

+1cc to Mr.Ma.P.Thangavel, Advocate sr.no.90794

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