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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.02.2017

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THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.1073 of 2017
and C.M.P.No.5370 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
[Villupuram Division-II], Ltd.,
Rangapuram, Vellore-9. .. Appellant/Respondent

Vs

Suresh .. Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 03.12.2014 made in M.C.O.P.No.243 of 2013 on the file of the Motor Accidents Claims Tribunal [Chief Judicial Magistrate], Vellore.

For Appellant : Mr.P.Paramasivados

For Respondent : Mr.C.Prabhakaran

J U D G M E N T

The claimant, Suresh, aged 30 years, a Supervisor in a private concern, earning a sum of Rs.15,000/- per month, met with an accident on 01.04.2013 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.5,44,000/- under the following heads :-

i. Loss of income during the period of treatment [Rs.4,500 x 4]	-	Rs. 18,000/-
ii. Transportation charges	-	Rs. 5,000/-
iii. Extra nourishment	-	Rs. 5,000/-
iv. Disability 50%	-	Rs.4,86,000/-



v. Pain and suffering

-

Rs. 30,000/-

Total Rs.5,44,000/-

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

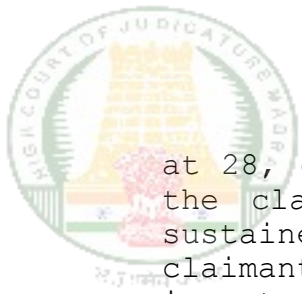
3.Learned counsel appearing for the appellant contended that the tribunal should not have relied upon the evidence of doctor in order to assess the percentage of disablement. It is further submitted that the Tribunal erred in fixing the disability at 50% and the award of a sum of Rs.4,86,000/- is excessive and the same warrants 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 a Supervisor in M/s.L&T Company and whether this disability would affect the earning capacity of the claimant is the issue to be considered.

6.At the time of accident, the claimant was aged 30 years and he suffered multiple injuries all over the body. In particular, the petitioner sustained fractures in right femur, right knee, right tibia, metacarpal base bones, pubic diastasis and right acetabulum. From the above injuries suffered, as is evident from the discharge summary, which is marked as Ex.P-2, it is evident that the injuries are not only grievous in nature, but the said injuries would also hamper the future life of the claimant. The injuries are to such an extent that the livelihood of the claimant in continuing his present avocation would also be a big question mark. The evidence on record further reveals that the claimant is not able to stand for a long time and his mobility has been very much restricted. Therefore, to continue his avocation as a Supervisor would have been difficult. The disability would affect his promotion prospects, thereby resulting in loss of earnings. Even otherwise, the saleability of the petitioner in employment market would be diminished. In such circumstances, the Tribunal was right in adopting multiplier method for quantification of compensation.

7.Though the Tribunal has fixed the age of the claimant



at 28, on the basis of documentary evidence, fixed the income of the claimant at Rs.4,500/-. 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 loss of earnings for a period of four months at Rs.18,000/-. The contention of the appellant that the percentage of disability fixed at 50% 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 50%, and has further come to the conclusion that there is definitely loss of earning, the contention of the appellant to the contra, without any material cannot be sustained. The said approach of the Tribunal, in the considered opinion of this Court, cannot be found fault with. The Tribunal has conservatively awarded only a sum of Rs.4,86,000/- under the head disability, which deserves to be sustained.

8.Insofar as the award under the other heads are concerned, a careful perusal of the award reveals that the Tribunal has conservatively awarded compensation, which are just and reasonable and cannot be termed to be excessive.

9.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.

10.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/respondent through RTGS within a period of two weeks thereafter.

Sd/-

Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

gya/GLN



To

1. Motor Accidents Claims Tribunal,
[Chief Judicial Magistrate], Vellore.

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

C.M.A.No.1073 of 2017

SSV(CO)
GN(04/05/2018)