

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.1100 of 2017  
and C.M.P.No.5458 of 2017

The Managing Director,  
Tamil Nadu State Transport Corporation  
(Kumbakonam Division-I) Limited,  
Railway Station New Road,  
Kumbakonam - 612 001. .... Appellant / 3<sup>rd</sup> Respondent

versus

1. M.Lakshmi .... 1<sup>st</sup> respondent / Petitioner
2. R.Pushpavalli .... 2<sup>nd</sup> respondent/1<sup>st</sup> respondent
3. M/s.The United India Insurance  
Company Ltd.  
No.13-A, Nethaji Road,  
Manjakuppam, Cuddalore. .... 3<sup>rd</sup> respondent/2<sup>nd</sup> respondent

Prayer : This appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and decree dated 21.06.2016 made in M.C.O.P.No.520 of 2014 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Cuddalore.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

The claimant Lakshmi, aged about 40 years, an agriculturist, earning a sum of Rs.10,000/- per month, met with an accident on 07.04.2013 and sustained injuries. Hence, she filed a claim petition in M.C.O.P.No.520 of 2014 before the Motor Accident Claims Tribunal, Special Subordinate Judge, Cuddalore, claiming compensation of Rs.5,00,000/-.

2. On account of this accident, the claimant suffered fracture in the right shoulder and there was mal-union. The percentage of disability has been certified as 50%. However, the Tribunal has taken the disability only at 25%, considering

the evidence of Doctor that the disablement is only partial disablement and not total disablement, fixing the monthly income at Rs.4,500/- and adopting the multiplier of 14, the loss of earning capacity in respect of 25% disability has been quantified at Rs.1,89,000/- (Rs.4,500 x 12 x 14 x 25%); awarding Rs.20,000/- towards pain and sufferings, Rs.10,000/- towards medical expenses; Rs.10,000/- towards transportation; Rs.10,000/- towards extra-nourishment, Rs.5,000/- towards loss of articles, the total amount has been quantified at 2,44,000/-

3. The learned counsel appearing for the appellant is aggrieved over the fact that the Tribunal has chosen to adopt the multiplier method on quantification, in respect of loss of earning capacity.

4. The fact remains that even though the Tribunal has adopted the multiplier method, the percentage of disability has been taken at 25% only, though the Doctor has certified it at 50%. Certainly at the age of 40 years, the fracture in shoulder will result in loss of earning capacity, therefore, the Tribunal cannot be faulted with for having adopted the multiplier method. Further, the compensation awarded under the head of pain and sufferings and other heads cannot be said to be excessive and the appeal has no merits.

5. Accordingly, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 21.06.2016 passed in M.C.O.P.No.520 of 2014 by the Motor Accident Claims Tribunal, Special Subordinate Judge, Cuddalore.

6. The Transport corporation is directed to deposit the entire amount of compensation, 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 being made, the claimant is permitted to withdraw the award amount. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,  
Special Subordinate Judge,  
Cuddalore.
2. The Section Officer,  
VR Section,  
High Court, Madras.

C.M.A.No.1100 of 2017

GP (CO)  
CS/29/06/17



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