

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.1115 of 2017

and C.M.P.No.5538 of 2017

The Managing Director,
Tamil Nadu State Express
Transport Corporation Limited,
Pallavan Salai,
Chennai - 2.

... Appellant /
Respondent

versus

K.Balasundaram

... Respondent/Petitioner

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, against the Judgment and Decree dated 23.08.2012, made in M.C.O.P.No.395 of 2010 on the file of the Motor Accident Claims Tribunal, (The Chief Judicial Magistrate), Krishnagiri.

For Appellant : Mr.K.J.Sivakumar

JUDGMENT

The claimant, K.Balasundaram, aged about 54 years, working as a Conductor in the Tamil Nadu State Transport Corporation, earning a sum of Rs.14,000/- per month, met with an accident on 04.09.2008 and sustained injuries, in respect of which, he filed a claim petition in M.C.O.P.No.395 of 2010 before the Motor Accident Claims Tribunal, (The Chief Judicial Magistrate), Krishnagiri, claiming compensation of Rs.10,00,000/-.

2. As against the claim made, the Tribunal, on consideration of oral and documentary evidence awarded a sum of Rs.9,49,570/- as compensation, payable by the Transport Corporation with interest at the rate of 6% p.a. from the date of petition till the date of deposit.

3. Aggrieved over the quantum of compensation, the Transport Corporation has filed this appeal.

4. The main contention raised by the learned counsel for the appellant is that the Tribunal ought not to have taken the permanent disablement at 60% and ought not to have adopted multiplier method in order to assess the loss of future earning capacity.

5. In order to appreciate the same, it is necessary to look into the details of the injury suffered by the claimant.

Discharge summary (Ex.A3) issued by Ganga Medical Centre and Hospital, Coimbatore, reveals that the claimant has suffered dislocation of metatarsal R foot; he suffered amputation below knee; prosthesis has been fixed after the amputation; the injured, without supporting stick, will not be able to walk; therefore, the Doctor assessed the disability at 70%. However, the Tribunal has fixed the functional disability at 60%. For fixing the said disability, the Tribunal has relied on the decision reported in 2008 ACJ 167 (Ramesh vs. Mohamed Sahid and others), where in respect of shortening the leg by 5 inches and 60% permanent disablement. The Tribunal having followed the ratio laid down in the decision above, the said approach cannot be said to be unsustainable and, accordingly, this Court confirms the fixation of permanent disability at 60%.

6. The claimant has produced his salary slip (Exs.A7 and A8) to show that his monthly income was Rs.14,187/-; despite the same, the monthly income has been taken only at Rs.10,000/-. Relying upon the Sarla Verma's case, multiplier of 11 has been adopted and the compensation of Rs.7,92,000/- (Rs.10000 X 12 X 11 X 60%) has been awarded under the head of permanent disablement; towards pain & suffering a sum of Rs.20,000/- has been awarded; Rs.10,000/- has been towards extra nourishment; Rs.1,17,769.10 has been awarded towards medical bills, rounded off Rs.1,17,770/-; an amount of Rs.5,800/- towards transportation as per the bills; Rs.3,000/- towards attendant charges and Rs.1,000/- towards damage to cloth and articles.

7. A careful perusal of the compensation awarded by the Tribunal shows that the Tribunal has applied its mind to each and every head and has awarded compensation, which is just and reasonable and cannot be termed to be excessive. Therefore, this Court confirms the compensation awarded by the Tribunal.

8. Accordingly, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 23.08.2012, passed in M.C.O.P.No.395 of 2010 by the Motor Accident Claims Tribunal, (The Chief Judicial Magistrate), Krishnagiri. No costs. Consequently, connected miscellaneous petition is closed.

9. The Transport Corporation shall deposit the entire amount of compensation, less the amount, if any, already deposited, along with interest at the rate of 6% p.a. from the date of petition till the date of deposit, 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, the Tribunal is directed to transfer the amount directly to the bank account of

the claimant through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ogy/GLN

To

1. The Motor Accident Claims Tribunal,
(The Chief Judicial Magistrate),
Krishnagiri.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

C.M.A.No.1115 of 2017

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