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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.1116 of 2017
and C.M.P.No.5554 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation
[Villupuram Division-I] Ltd.,
3/137, Salamedu, Vazhuthareddy,
Villupuram.

.. Appellant/Respondent

Vs

Gnana Raj

.. Respondent/Petitioner

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 14.07.2014 made in M.C.O.P.No.1037 of 2011 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr.P.Paramasivados

J U D G M E N T

The claimant, Gnana Raj, aged 54 years, a mason, earning a sum of Rs.350/- per day, met with an accident on 14.11.2010 in which he sustained injuries. Therefore, he filed a claim petition claiming compensation in a sum of Rs.8,00,000/- as compensation.

2.The Tribunal, on consideration of oral and documentary evidence, awarded compensation in a sum of Rs.4,50,200/- under the following heads :-



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i. Loss of income [6 months]	-	Rs. 42,000/-
ii. Transportation	-	Rs. 10,000/-
iii. Extra nourishment	-	Rs. 10,000/-
iv. Damage to clothes	-	Rs. 1,000/-
v. Medical expenses	-	Rs. 20,000/-
vi. Attender charges	-	Rs. 10,000/-
vii. Mental agony	-	Rs. 15,000/-
viii. Loss of amenities	-	Rs. 25,000/-
ix. Pain and suffering	-	Rs. 40,000/-
x. Disability		
[7000x12x11x30%]	-	Rs. 2,77,200/-

Total		Rs. 4,50,200/-

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 30% and the award of a sum of Rs. 2,77,200/- towards disability in loss of earning power is excessive. It is further submitted that the alleged disability would not affect the earning power and therefore, the award needs 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 mason and whether this disability would affect the earning capacity of the claimant.

6. At the time of accident, the claimant was aged 54 years and he suffered multiple injuries all over the body. The Tribunal fixing the age of the claimant at 55 years, fixed the income of the claimant at Rs. 7,000/- per month. 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 at Rs. 2,77,200/- by



fixing the percentage of disability at 30%. The contention of the appellant that the percentage of disability fixed 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 30% 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.2,72,200/- under the head disability, which deserves to be sustained.

7. 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.

8. 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.

9. 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 through RTGS within a period of two weeks thereafter.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. Motor Accidents Claims Tribunal,
II Court of Small Causes, Chennai.

C.M.A.No.1116 of 2017
and
C.M.P.No.5554 of 2017

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