



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.1716 of 2017
and C.M.P.No.9296 of 2017

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House, Anna Salai,
Chennai - 2.

... Appellant/Respondent

versus

T.Raja

... Respondent/Petitioner

Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 19.08.2013 made in M.C.O.P.No.3015 of 2011 on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : Mr.S.V.Vasanth Kumar

JUDGMENT

As against the claim made for Rs.6,00,000/-, the Tribunal has passed an award for a sum of Rs.3,15,900/-. Challenging the award as excessive and disproportionate to the injury, the Transport Corporation has filed this appeal.

2. The claimant, Raja, aged 38 years, employed as a master in Sweet Stall, earning a sum of Rs.500/- per day, met with an accident on 30.06.2011. Therefore, the injured filed a claim petition claiming a sum of Rs.6,00,000/- as compensation.

3. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.3,15,900/=, under the following heads, after deducting 25% from the total award amount towards contributory negligence :-



WEB COPY

Loss of income for 4 months	-	Rs. 18,000/-
Transportation	-	Rs. 10,000/-
Extra nourishment	-	Rs. 10,000/-
Medical expenses	-	Rs. 5,000/-
Future Medical Expenses	-	Rs.1,00,000/-
Pain and suffering	-	Rs.1,00,000/-
Loss of earning power (Rs.4500 x 12 x 15 x 22%)	-	Rs.1,78,200/-

Total	-	Rs.4,21,200/-
Less: Contributory negligence at 25%	-	Rs.1,05,300/-

Total	-	Rs.3,15,900/-

Challenging the compensation awarded as excessive, the appellant/Transport Corporation has filed this appeal.

4. The main contention of the learned counsel appearing for the appellant is that the Tribunal has wrongly awarded a sum of Rs.1,78,200/- towards 65% disability adopting multiplier method and this is a case which do not warrant adoption of multiplier method. Further, the contention is that the Tribunal has awarded the compensation under various heads, which are not supported by any documentary evidence and, therefore, the award needs reduction.

5. This Court gave its anxious consideration to the contentions advanced by the learned counsel for the appellant and perused the materials available on record as also the order passed by the Tribunal.

6. A perusal of the order passed by the Tribunal reveals that the Tribunal has fixed the age of the claimant at 38 years based on his evidence as well as on the basis of his statement in the claim petition. The Tribunal, in the absence of any proof adduced to prove avocation and income, fixed the monthly income of the injured at Rs.4,500/- p.m. Further, on the basis of documentary evidence, which reveals that the claimant has taken the treatment as in-patient at Government General Hospital, Chennai, from 30.06.2012 to 10.08.2011, i.e. 42 days and that the claimant has sustained Grade-II fracture of both bones of left leg for which surgery was performed on 05.08.2011 and further fixing the disability at 22%, considering the age, nature of employment and the impact of the injury on the future life of the claimant, quantified compensation towards loss of earnings power at 1,78,200/=.



7. A perusal of the documents available on record would reveal that even though the disability has been assessed by the Doctor at 65%, the functional disability has been fixed by the Tribunal only at 22%. On the basis of the claim of the claimant that he is working as a Master in a Sweet Shop, the Tribunal, on the basis of the injuries suffered, held that the said injuries would render long hours of standing difficult and certainly the same would affect the earning capacity of the claimant. The Tribunal, on the basis of cogent and convincing reasons has adopted multiplier method for quantifying the loss of earning power. On an overall consideration of the entire factual matrix as also the injuries sustained by the claimant, the nature of injury and the impact of the injuries on his future earnings, the adoption of multiplier method adopted cannot be found fault with.

8. Insofar as medical expenses is concerned, the Tribunal, considering the fact that the claimant had taken treatment in Government General Hospital, has awarded only a sum of Rs.5,000/-. The records reveal that series of operation was performed on the claimant and definitely the claimant would have incurred much higher medical expenses. Therefore, the amount awarded by the Tribunal cannot be said to be excessive. Insofar as compensation for loss of income, the Tribunal has considered compensation only for a period of four months, though the nature of injury and the healing time that would be required suggest that compensation should have been awarded at least for a period of another six months. It is further to be pointed out that the Tribunal has not awarded any compensation towards loss of enjoyment of amenities.

9. Considering the award passed by the Tribunal on the facts and circumstances of this case, coupled with the nature of injuries suffered by the claimant and the period of treatment, the compensation awarded by the Tribunal cannot be said to be excessive and, therefore, the same requires no interference.

10. For the reasons aforesaid, this appeal, being devoid of merits, is liable to be dismissed and, accordingly, the same is dismissed. Consequently, connected miscellaneous petition is closed.

11. The Transport Corporation is directed to deposit the entire award amount along with interest at the rate of 7.5% 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



being made, the Tribunal shall transfer the same directly to the Bank Account of the claimant, within a period of two weeks thereafter.

WEB COPY

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

ogy/GLN

To

1. The Motor Accident Claims Tribunal,
II Small Causes Court,
Chennai.

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

C.M.A.No.1716 of 2017

ad(co)
nr 12/04/2018