



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.1717 of 2017
and C.M.P.No.9297 of 2017

The Managing Director,
Metropolitan State Transport
Corporation Limited,
Pallavan Salai,
Chennai - 600 002.

... Appellant/Respondent

versus

P.Vijayakumar

... Respondent/Petitioner

Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 06.08.2013 made in M.C.O.P.No.950 of 2011 on the file of the Motor Accident Claims Tribunal, IVth Small Causes Court, Chennai.

For Appellant : Mr.S.V.Vasanth Kumar

JUDGMENT

The claimant, Vijayakumar, aged 30 years, a Software Engineer, met with an accident while travelling in a Bus, bearing Reg.No.TN01N 5724 and sustained multiple fracture over the right leg, fracture over the skull and contusion over the left hand apart from facial injuries and cut injury over the left eyebrow. Initially he was admitted in the Balaji Hospital, then admitted in the Xcellent Hospital. The injured filed a claim petition, claiming compensation of Rs.6,00,000/- as compensation before the Motor Accident Claims Tribunal (IV Court of Small Causes), Chennai.

2. The Tribunal, after considering the materials on records, has passed an award for a sum of Rs.2,13,000/- under the following heads :-

Loss of earning	-	Rs.	15,000/-
Transport to Hospital	-	Rs.	7,000/-
Extra nourishment	-	Rs.	10,000/-
Damages to clothes	-	Rs.	1,000/-
Pain and suffering	-	Rs.	40,000/-
Disability	-	Rs.	1,40,000/-

Total	-	Rs.	2,13,000/-



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

3. The learned counsel appearing for the appellant submits that the award of compensation adopting percentage method and quantifying Rs.2,000/- per percentage of disability is unsustainable. It is further contended that the disability fixed at 70% is not proper as the claimant has no loss of earning and no loss of employment.

4. The materials available on record reveal that the injured had been employed as Software Engineer in TCS e-Serve Ltd. and earning a sum of Rs.24,000/- per month. The doctor has assessed the disability at 80%, stating that the injured had suffered fracture of skull, bleeding in the left ear, multiple hemorrhage, contusion over right frontal temporal lobes and fracture of right.

5. The Tribunal, considering the above materials and the evidence of the doctor, while fixed the disability at 70%, awarded disablement compensation at Rs.2,000/- per percentage of disability amounting to Rs.1,40,000/-. The Tribunal, considering the nature of injuries, awarded a sum of Rs.40,000/- towards pain and sufferings, Rs.10,000/- towards extra nourishment, Rs.7,000/- towards transportation to the hospital, Rs.15,000/- towards loss of earning and Rs.1,000/- towards damages to clothes. In all, the Tribunal quantified the compensation at Rs.2,13,000/-.

6. Though it is the contention of the learned counsel appearing for the appellant that the percentage method adopted to quantify the disability is not sustainable and that the amount of Rs.2,000/- awarded per percentage of disability is on the higher side, a perusal nature of injuries sustained by the petitioner would reveal that the disablement suffered by the petitioner would drastically reduce his chance of higher prospects. The claimant would also lose the competitive edge over others due to the disablement suffered and he would be severely hampered by the disability while competing with other persons. Overall, the efficiency of the claimant would suffer due to the disablement. Keeping all the above aspects in mind, the Tribunal has quantified the disablement compensation, which cannot be said to be excessive. Further, the adoption of percentage method for quantifying the compensation is proper as otherwise adoption of multiplier method would only result in higher compensation being awarded. Therefore, this Court is of the considered view that neither the compensation can be termed to be excessive nor the adoption of percentage method be said to be wrong. Accordingly, the compensation awarded towards disability requires no interference.



7. Insofar as the compensation awarded under the other heads are concerned, considering the injuries suffered by the claimant, the period of treatment and the impact of the injuries on the future life of the claimant, this Court is of the considered view that the compensation awarded on those heads are just and reasonable and no interference is warranted.

8. 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.

9. The appellant/Transport Corporation is directed to deposit the award amount along with interest at the rate of 7.5% p.a. 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 same directly to the bank account of the claimant through RTGS within two weeks thereafter.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

ogy/GLN

To

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

2.The Section Officer,
High Court, Madras.

C.M.A.No.1717 of 2017

vgi(co)
nr 25/04/2018