



WEB COPY

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 22.06.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.1994 of 2017

and

C.M.P.No.10725 of 2017

The Managing Director,
Tamil Nadu Transport Corporation
Coimbatore Ltd, Chennimalai Road,
Erode-1.

... Appellant/1st Respondent

versus

1.Muthukumar

2.Azhagumuthu

3.The Managing Director,
Tamil Nadu Transport Corporation (Salem) Ltd,
No.12, Ramakrishna Road, Salem-7.

4.Govindan .. Respondents/Petitioner, Respondents 2 to 4

Appeal filed under Section 173 of the Motor Vehicles Act, 1989 against Decree and order passed in MCOP.No.90 of 2010 dated 29.02.2012 on the file of Motor Accident Claims Tribunal and Principal Subordinate Judge, Sankari.

For Appellant : No Appearance
For Respondents: Mr.C.Kulanthaivel for R1

J U D G M E N T

As against the claim made for a sum of Rs.3,00,000/-, award has been passed for a sum of Rs.1,60,000/-. Challenging the award, the Transport Corporation has filed this Appeal.

2. The Claimant Muthukumar, aged 43 years, employed as a Commercial Inspector in TNEB, Salem, earning a sum of Rs.10,000/- per month, met with an accident on 17.01.2010 and sustained injuries. He filed a claim petition for compensation claiming a sum of Rs.3,00,000/-.



3. The Tribunal on consideration of the materials placed before it, has chosen to award a sum of Rs.1,60,800/- as compensation, the break up of which is as hereunder :-

Permanent Disablement	--	Rs. 60,000/-
Pain and Suffering	--	Rs. 25,000/-
Medical Expenses	--	Rs. 13,800/-
Extra Nourishment	--	Rs. 20,000/-
Attender Charges	--	Rs. 5,000/-
Transport Expenses	--	Rs. 5,000/-
Loss of Amenities	--	Rs. 5,000/-
Loss of Income	--	Rs. 27,000/-

Total	--	Rs.1,60,800/-

Challenging the compensation awarded as excessive, the appellant has preferred the present appeal.

4. When the matter was taken up there was no representation for the appellant. However, a perusal of the grounds raised shows that the appellant has questioned the compensation awarded towards loss of income by fixing the income at Rs.4,500/- as on the higher side. It is further averred that the compensation awarded towards pain and suffering and the disability fixed at 30% are not justified and the same needs to be reduced. It is also averred that the compensation towards extra nourishment is also on the higher side.

5. A perusal of the order passed by the Tribunal reveals that the claimant has suffered fracture of his right hip, right knee and right thigh and also suffered injuries all over the body. The claimant was admitted in the Vinayaka Mission Hospital, Salem and later referred to Dharan Hospital, Salem. The Doctor, who treated the claimant and issued the disablement certificate, considering the injuries suffered by the claimant, assessed the disability at 33%. However, the Tribunal has fixed the disability at 30% and adopting percentage method, had quantified the compensation towards disablement at Rs.60,000/=. The Tribunal, considering the nature of injuries suffered by the claimant, the treatment taken and the impact of the injuries on the day-to-day activities of the claimant, awarded a sum of Rs.25,000/= towards pain and suffering; Rs.13,800/- towards medical expenses, which is supported by bills; Rs.20,000/= towards Extra Nourishment; Rs.5,000/= towards cost of attendant; Rs.5,000/- towards transport expenses and Rs.5,000/- towards loss of inconvenience of amenities.

6. The Tribunal, in the absence of any proof to substantiate the monthly income of the claimant, fixed the income at Rs.4,500/- and considering the injuries sustained, was of the view that the claimant would have suffered loss of income for a period of 6 months and, accordingly, awarded a sum of Rs.27,000/- towards loss of income.



7. Though it is the contention of the learned counsel for the appellant that the compensation awarded towards disability, pain and suffering and loss of income are on the higher side, however, a careful perusal of the injuries sustained by the claimant together with the impact of the injuries on the day-to-day living of the claimant and the treatment given for the said injuries, this Court is of the considered view that the claimant would have suffered much pain and suffering and, therefore, the award of Rs.25,000/- cannot be said to be high. Similarly, the loss of income quantified at Rs.27,000/- for a period of six months also cannot be said to be high, considering the fact that the injuries sustained by the claimant would have sidelined him from attending his avocation for a period of six months. Therefore, the compensation awarded under the said head is justifiable.

8. Insofar as the compensation awarded towards disability is concerned, though the Doctor has assessed the disability at 33%, however, the Tribunal, on appreciation of the injuries and its impact on the daily routine of the claimant, fixed the disability at 30% and adopting percentage method had awarded Rs.2,000/- per percentage of disability, which is just and reasonable and cannot be said to be on the higher side. The compensation awarded under the various heads are just and reasonable and keeping in mind the injuries suffered and the time that would be taken for the injuries to heal and the effect of the injuries. The compensation cannot be said to be excessive and, accordingly, the same are confirmed.

9. For the reasons aforesaid, this appeal is liable to be dismissed and, accordingly, the same is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

10. The appellant/Transport Corporation is directed to deposit the entire award amount along with interest and costs as quantified by the Tribunal, 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 VIII)

//True copy//

Sub Assistant Registrar

rkp/GLN



To

1. Motor Accidents Claims Tribunal
Principal Subordinate Judge,
Sankari.

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

+1cc to Mr.C.Kulanthaivel, Advocate SR.No.43956

C.M.A. No.1994 of 2017

NMI (CO)
GN(30/05/2018)