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IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED : 15.06.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No. 2191 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Coimbatore Division - I,
37, Mettupalayam Road,
Coimbatore - 641 03.

.. Appellant/II Respondent

-/Vs/-

1. R. Maheswari
2. M. Natarajan

.. Ist Respondent/Petitioner
..2nd Respondent/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Judgment and Decree dated 07.04.2004 made in M.A.C.T.O.P.No. 245 of 2002 on the file of the Motor Accidents Claims Tribunal (Additional District and Session Court), Fast Track Court-II, Coimbatore.

For Appellant : M/s.V.Udayakumar

J U D G M E N T

The claimant, Maheswari, aged 21 years, a vegetable vendor, earning a sum of Rs.2000/-per month, met with a accident on 10.10.2001. Therefore, she filed a claim petition claiming a sum of Rs.2 lakhs (Rupees Two Lakhs Only) as compensation.

2. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.1,22,950/-, the break-up details of which is as under :-

Pain and suffering	:	Rs. 25,000/-
Permanent Disability	:	Rs. 23,000/-
Loss of Earning power	:	Rs. 58,650/-
For Medical Expenses	:	Rs. 16,300/-

Total		Rs.1,22,950/-



Challenging the quantum of compensation as excessive, the present appeal has been filed by the transport corporation.

3. The learned counsel appearing for the appellant submits that while the loss of earning capacity has been awarded at Rs.58,650/- a sum of Rs.23,000/- has been awarded towards permanent disability which is impermissible and unreasonable and, accordingly, the necessary reduction has to be made to the compensation awarded.

4. A perusal of the records reveal that the claimant has deposed that she is selling vegetables and she was earning a sum of Rs.2000/- per month. The injuries suffered by the claimant show that she has suffered fracture in the right hand and she was taking treatment at PSG Hospital, Coimbatore for the period from 10.10.2001 to 17.10.2001 as inpatient. Surgery was also performed on the right hand and plastic surgery has been performed in her cheek.

5. The avocation of the claimant being vegetable vendor, lifting heavy materials with her hands is a basic requirement. The injuries are suffered on her right hand and surgery has been performed. Though the contention of the appellant that disablement compensation and loss of earning power cannot be awarded, which contention appears to be acceptable, however, the facts on record reveals that the Tribunal has not awarded any compensation towards loss of enjoyment of life and extra nourishment. In such circumstances, this Court is of the considered view that the compensation awarded under the head permanent disability would stand redistributed and a sum of Rs.13,000/- would stand awarded towards loss of enjoyment of life and a sum of Rs.10,000/- would stand awarded towards extra nourishment.

6. For the reasons aforesaid, this Court holds that the compensation awarded under the various heads are not excessive or unreasonable and, accordingly, the said compensation is confirmed, but the same is restructured as hereunder :-

Pain and suffering	:	Rs. 25,000/-
Loss of Enjoyment of Life:		Rs. 13,000/-
Extra Nourishment	:	Rs. 10,000/-
Loss of Earning power	:	Rs. 58,650/-
For Medical Expenses	:	Rs. 16,300/-

Total		Rs.1,22,950/-

7. Accordingly, this appeal is is liable to be dismissed



and, accordingly, the same is dismissed. Consequently, connected miscellaneous petition is closed.

8. 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 shall transfer the 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

ksa/GLN

To

1. The Additional District and Session Judge,
Fast Track Court-II, Coimbatore.
2. The Section Officer, VR Section,
High Court, Madras.

C.M.A.No.2191 of 2017

PVS (CO)
CS/11/06/18