



IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED : 15.06.2017
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THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No. 2228 of 2017

The Managing Director,
State Express Transport Corporation Limited,
(Tamil Nadu Division-I),
Chennai - 2

..Appellant/2nd Respondent

-/Vs/-

1. T. Narayanan
2. Y. Edward Alexandar
3. M.Kurusamy
4. T.M.Sankara Narayanan
5. The Divisional Manager,
New India Assurance Company Limited,
Kamarajar Salai, Madurai - 625 009.

.. 1st Respondent/Petitioner

rep.by its Divisional manager
Apply Towers, R.S.Puram,
Coimbatore.

.. Respondents 2 to 5/
Respondens 2 to 5

(Respondents 2 to 5 are not
necessary party hence given up)

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Judgment and Decree dated 21.04.2003 made in M.A.C.T.O.P.No. 571 of 1999 on the file of the Motor Accidents Claims Tribunal (Additional District and Sessions Judge), Fast Track Court-II, Coimbatore.

For Appellant : Mr.V.Udayakumar

J U D G M E N T

The claimant, Narayanan, aged 57 years, working as Driver and earning a sum of Rs.1000/- per month and Rs.50/- as daily allowance, met with an accident on 22.04.1998. Therefore, he filed a claim petition claiming a sum of Rs.3,00,000/= as compensation.

2. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.1,28,165/-, the break-up details of which is as under :-



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Loss of earning capacity :	Rs. 48,000/-
Medical Expenses :	Rs. 15,165/-
Pain & Suffering :	Rs. 25,000/-
Permanent Disability :	Rs. 40,000/-

Total	Rs.1,28,165/-

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

3. It is the contention of the learned counsel for the appellant that the compensation awarded towards loss of earning capacity and permanent disability are on the higher side and the same needs to be reduced.

4. The materials available on record reveals that the claimant suffered grievous injuries over the right side hip and suffered fracture on the leg, which resulted in consequent permanent disablement. The claimant has deposed that he suffered fracture in the right hand and right leg. The claimant was admitted in Government Hospital, Tirumangalam for first aid from where he was refereed to Government Rajaji Hospital, Madurai. Thereafter, the claimant took treatment at Thippaiah Private Hospital at Mettupalayam and, thereafter, at Vedhanayagam Hospital, Coimbatore. The Tribunal relying upon the medical records and considering the injuries suffered by the claimant, awarded a sum of Rs.25,000/-towards pain and suffering.

5. The records further reveal that the doctor has certified the permanent disablement suffered by the claimant in the right hand at 40% and issued disability certificate. The Tribunal, considering the certificate and upon analyzing the medical records, while accepted the disability at 40%, adopting percentage method, awarded a sum of Rs.40,000/- at Rs.1,000/- per percentage of disability.

6. For the purpose of quantification of compensation towards loss of income, the Tribunal has relied upon Ex.P.15 income certificate, wherein the claimant has stated that his monthly income was Rs.1000/- and was getting a daily allowance of Rs.50/-, the Tribunal fixed the notional annual income of the claimant at Rs.15,000/- and adopting the multiplier of 8, the loss of earning capacity has been calculated at Rs.48,000/- (Rs.15,000 X 8 X 40/100). On the basis of medical bills, the Tribunal awarded a sum of Rs.15,165/- towards medical expenses. Loss of earnings during treatment period, cost of attendant, loss of enjoyment of amenities, extra-nourishment, are not considered by the Claimant and if loss of earning capacity is considered as excessive, that amount should be distributed to



non considered head of account.

7. From an overall analysis of the findings and reasons adduced by the Tribunal for quantifying the compensation, this Court is of the considered view that the Tribunal has analyzed the evidence available on record in proper perspective and has awarded just and reasonable compensation. The compensation awarded by the Tribunal cannot be said to be excessive or disproportionate and is wholly justified. Therefore, the compensation awarded is confirmed.

8. For the reasons aforesaid, this Court finds no reason to interfere with the order passed by the Tribunal and, accordingly, this appeal is liable to be dismissed. Accordingly, the appeal is dismissed. Consequently, connected miscellaneous petition is also closed.

9. 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 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

ksa/GLN

To

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

C.M.A.No.2228 of 2017

MP(CO)
CS/12/06/18