

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 07.09.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.2793 of 2017

and

C.M.P.No.15962 of 2017

The Managing Director,  
Tamil Nadu State Transport Corporation Ltd.,  
Kumbakonam ... Appellant/Petitioner

versus

Kalimuthu ... Respondent/Respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 21.10.2016 made in M.A.C.T.O.P.No.833 of 2014 on the file of the Motor Accident Claims Tribunal, I Additional District Judge, Cuddalore.

For appellant : Mr.D.Venkatachalam

J U D G M E N T

Challenging the quantum of compensation awarded the Transport Corporation has filed this appeal.

2. The claimant, Kalimuthu, aged 60 years, a farmer, earning a sum of Rs.10,000/- per month, met with an accident on 13.11.2013. He suffered fracture of hip bone apart from injuries over the head and other simple injuries all over the body. He took treatment at R.M.M.C. Hospital, Chidambaram, Government Hospital, Mayiladuthurai, Government Medical College and Hospital, Thiruvarur and then he took further treatment at various private hospitals. The claimant filed the claim petition claiming a sum of Rs.5,00,000/- as compensation.

3. The Tribunal, on consideration of materials, both oral and documentary, quantified the compensation at Rs.2,82,000/- under the following break-up details are as follows:-

|                          |   |               |
|--------------------------|---|---------------|
| 50% Disability (Lumpsum) | - | Rs.2,00,000/- |
| Pain and sufferings      | - | Rs. 50,000/-  |
| Attender fee (3x4000)    | - | Rs. 12,000/-  |
| Extra Nourishment        | - | Rs. 10,000/-  |
| Transport charges        | - | Rs. 10,000/-  |
|                          |   | -----         |
| Total                    | - | Rs.2,82,000/- |
|                          |   | -----         |

Challenging the compensation awarded as excessive, the present appeal has been filed by the claimant.

4. The learned counsel for the appellant submits that fixing of permanent disablement at 50% itself is on the higher side and the Tribunal ought not to have awarded a sum of Rs.2,00,000/- as lumpsum compensation, but should have followed the percentage method for awarding compensation.

5. The Tribunal while passing the award as relied upon the decision reported in 2015 (1) TN MAC Page No.337 (S.C.) (S. Perumal versus K.Ambika & Ors.) wherein in respect of the claimant, who had suffered 25% disablement and running a poultry farm, lumpsum compensation of Rs.2 Lakhs was awarded, the Tribunal, in respect of 50% disablement in the present case, fixed the lumpsum compensation at Rs.2 Lakhs.

6. A perusal of the order passed by the Tribunal reveals that the Tribunal has relied upon the evidence of claimant as well as the evidence of the Doctor, who was examined to speak about the permanent disablement. The claimant has sustained grievous injuries on various parts of the body, including the head. Immediately after the accident he had been admitted in Mayiladuthurai Government Hospital and then admitted in the Thiruvavarur Medical College Hospital, where surgery was performed by fixing the plate and screws, which is evident from the discharge summary. The Tribunal has relied on the discharge summary and accident register to arrive at the finding for quantification of compensation.

7. The Doctor has spoken about surgery performed on the claimant and the consequent disablement on account of the accident. It is further evident that due to fracture the movement on the left hip of the petitioner is restricted and the claimant suffers from pain and due to that the claimant could not sit for a long time. Considering the overall injuries sustained by the claimant, the Doctor has assessed the disablement at 60%. However, the Tribunal fixed the percentage of disablement at 50%. This Court on a perusal of the injuries sustained by the claimant, and is of the considered view that the fixation of the percentage of disability at 50% cannot be said to be excessive and is completely justified. Further, this Court, on the facts and circumstances of the case is of the view that the Tribunal ought to have adopted multiplier method. Had the multiplier method been adopted, the compensation would be on a much higher side. However, the Tribunal has awarded a consolidated sum of Rs.2,00,000/=-, which, by no stretch of imagination, could be said to be excessive or disproportionate, considering the injuries sustained by the claimant.

8. On the other heads as well, the compensation awarded by the Tribunal is just and reasonable and this Court sees no

reason to interfere with the compensation quantified by the Tribunal.

9. For the reasons aforesaid, this Civil Miscellaneous Appeal 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 awarded by the claims 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 savings bank accounts of the claimant through RTGS within a period of two weeks thereafter.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kv/GLN

To

- 1.The Motor Accident Claims Tribunal,  
I Additional District Judge, Cuddalore.
2. The Section Officer, VR Section,  
High Court, Madras.

GP(CO)

sm:23.4.2018

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