

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2017

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THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. NO. 3204 OF 2017

AND

C.M.P. NO. 19741 OF 2017

The Managing Director
Tamil Nadu State Transport Corporation Ltd.
Villupuram.

.. Appellant

- Vs -

T.Raghu Nayagi

.. Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 02.07.2014, passed by the Motor Accident Claims Tribunal (V Small Causes Court), Chennai, made in MCOP No.4046/2011.

For Appellant : Mr. Antony Arockiaraja

For Respondent : Ms. S.Janaki for Mr. A.A.Venkatesan

ORDER

Aggrieved against the award of Rs.2,18,000/- passed by the Tribunal in respect of the accident in which the respondent is said to have suffered injuries, the appellant has preferred the present appeal.

2. The claimant, Raghu Nayagi, aged about 58 years, a self-employed lady, earning a sum of Rs.300/- per day, who was travelling as a passenger in the bus belonging to the appellant, suffered injuries in the accident that took place on 19.6.11 and in respect of which she filed claim petition claiming compensation in a sum of Rs.2,25,000/- . The Tribunal, considering the oral and documentary evidence placed before it, awarded a sum of Rs.2,18,000/- as compensation, the breakup of which are as hereunder :-

Loss of income for 3 months (6500 X 3)	:	Rs. 19,500/-
Transportation	:	Rs. 7,200/-
Extra Nourishment	:	Rs. 40,000/-
Damage to Clothes & Articles	:	Rs. 1,300/-
Medical Expenses	:	Rs. 5,000/-
Pain & Suffering	:	Rs. 40,000/-
Disability at 40% at Rs.2000/- per Percentage	:	Rs. 80,000/-
Loss of Amenities	:	Rs. 25,000/-
Total Compensation	:	Rs.2,18,000/-

The present appeal has been filed by the Transport Corporation challenging the above award as exorbitant and unreasonable.

3. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent and perused the materials available on record as also the findings rendered by the Tribunal.

4. The record reveals that the claimant suffered fracture of right clavicle and the doctor, who examined the claimant has also spoken about the head injury suffered by the claimant and the disability has been assessed at 40%, which stands substantiated by the disability certificate, Ex.P-36. It is the case of the claimant that the cause of the injury over the right clavicle has curtailed her carrying any heavy weight and she is not able to continue her avocation as before. The doctor has spoken about the non-union of bones after the fracture and its impact resulting in restriction of right shoulder to the extent of 30 degrees. For the injury sustained on the head, sutures have been made and that has resulted in disfiguration causing frequent headaches and tiresomeness to the claimant. It is further evident from the deposition of the witnesses that there is restriction in the movement around the neck portion and that has resulted in the claimant carrying out her avocation resulting in loss of earning.

5. The discharge summary issued by Sundaram Foundation shows that the claimant was treated as in-patient on 19.6.11. Considering the materials, both oral and documentary, the Tribunal has quantified the loss of income at

Rs.6,500/- per month for 3 months totaling to Rs.19,500/- and has further awarded compensation under the other heads like 'Transportation', 'Medical Expenses', 'Extra Nourishment', 'Damage to Clothes & Articles', 'Pain & Suffering', 'Loss of enjoyment of amenities' and 'Disability'.

6. Learned counsel appearing for the Transport Corporation submits that the compensation towards 'Extra Nourishment' is on the higher side, which is countered by the learned counsel appearing for the respondent submitting that the compensation awarded under 'Transportation' and 'Loss of Income' are on the much lower side. The submissions of both the side, though merit acceptance, however, the higher compensation under 'Extra Nourishment', would offset the inadequate compensation awarded under the head 'Transportation' and 'Loss of Income' and, therefore, this Court feels that no interference is required with the compensation awarded under the above heads.

7. Learned counsel for the claimant submits that though this is a fit case for adoption of multiplier method, however, the Tribunal had adopted the per percentage method and arrived at the compensation for disability, which is refuted by the learned counsel for the appellant that the adoption of per percentage method for computing compensation for disability is fully justified and does not require interference, on the ground that the claimant is aged 58

years and loss of earning capacity be due to disability has to be computed keeping in mind the age of the claimant.

8. Though the above argument and counter argument has been advanced on behalf of the parties, however, this Court, on considering the totality of the circumstances and on a perusal of the compensation awarded under various heads coupled with the finding of the Tribunal for awarding the said compensation, is of the view that the compensation awarded is just and reasonable and does not call for any interference at the hands of this Court.

9. In the result, this civil miscellaneous appeal is dismissed confirming the judgment and decree dated 02.07.2014, passed by the Motor Accident Claims Tribunal (V Small Causes Court), Chennai, made in MCOP No.4046/2011. Consequently, connected miscellaneous petition is also dismissed. However, in the circumstances of the case, there shall be no order as to costs.

10. The appellant/Transport Corporation is directed to deposit the entire award amount along with interest at 7.5% per annum from the date of petition till the date of deposit, less the amount, if any, already deposited, to the credit of MCOP No.4046/2011 on the file of the Motor Accident Claims Tribunal (V Small Causes Court), Chennai, 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 amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

10.11.2017

GLN

To

The Registrar
Motor Accident Claims Tribunal
(V Court of Small Causes)
Chennai.

DR. S.VIMALA, J.

GLN

C.M.A. NO. 3204 OF 2017

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