

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.527 of 2017
and C.M.P.No.3328 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Villupuram.

...Appellant/Respondent

versus

Saroja

...Respondent/Petitioner

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 31.10.2006 made in M.A.C.T.O.P.No.887 of 2005 on the file of the Motor Accident Claims Tribunal (Subordinate Court), Gingee.

For Appellant : Mr.N.Anand

JUDGMENT

The claimant Saroja, aged about 55 years, an agricultural coolie, earning a sum of Rs.1,500/- per month, met with an accident on 22.08.2005 and sustained injuries. Hence, she filed a claim petition in M.A.C.T.O.P.No.887 of 2005 before the Motor Accident Claims Tribunal (Subordinate Court), Gingee, claiming compensation of Rs.2,00,000/-.

2. As against the claim made, the Tribunal has awarded a sum of Rs.1,19,000/- which is payable by the Transport Corporation along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. The break-up details of the compensation read as under:

Disability (24%)	-	Rs. 75,000/-
Pain and sufferings	-	Rs. 15,000/-
Loss of income during the treatment period (six months) (6x Rs.1500)	-	Rs. 9,000/-
Loss of earning capacity	-	Rs. 10,000/-
Extra nourishment	-	Rs. 1,000/-
Total	-	<u>Rs.1,10,000/-</u>

The actual compensation comes to Rs.1,10,000/-, but, the Tribunal has wrongly calculated the compensation at Rs.1,19,000/-.

3. The learned counsel appearing for the appellant would submit that the compensation awarded is excessive, as the disability is only at 24%.

4. In the evidence, the doctor has stated that there is a restriction in movement around the right wrist to the extent of 10° and there is a difficulty in carrying heavy weight and there is a loss of muscle power apart from disablement in performing her regular duties. Hence, the disability is assessed at 24%.

5. Having regard to the present trend in awarding compensation, the award cannot be said to be excessive. The nature of injury suffered and part of the body in which there had been injuries would not only affect the earning capacity, but also would be a predicament in discharging the household responsibilities.

5.1. When the Tribunal has awarded disablement compensation, there need not have been another award under loss of earning capacity. But, the fact remains that the loss of enjoyment of amenities has not been awarded. Therefore, considering the overall facts and circumstances, the award is reasonable.

6. Hence, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 31.10.2006 made in M.A.C.T.O.P.No.887 of 2005 on the file of the Motor Accident Claims Tribunal (Subordinate Court), Gingee.

7. The Transport Corporation shall deposit the entire amount of compensation along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimant shall withdraw the same. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal
(Subordinate Court), Gingee.

C.M.A.No.527 of 2017