

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2017

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

C.M.A. No.913 of 2017
and C.M.P.No.4519 of 2017

The Managing Director
Tamil Nadu State Transport Corporation Ltd
Coimbatore Division I
37, Mettupalayam Road,
Coimbatore

... Appellant/2nd Respondent

vs

1. T.Senthil Chandrasekar ...1st Respondent/Petitioner

2. Arumugam
(R2 given up) ...2nd Respondents/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the fair and decretal order dated 09.01.2007 passed in M.C.O.P.No.1218 of 2006 by the learned III Additional Sub Judge, Motor Accident Claims Tribunal, Coimbatore.

For Appellant : Mr.S.S.Swaminathan

For Respondent-1 : Mr.A.S.Vijayaraghavan

For Respondent-2 : Given up

WEB COPY
JUDGMENT

This appeal is preferred by the appellant-Transport Corporation challenging the quantum of compensation awarded to the claimant, who was injured in a road accident that took place on 05.12.2005.

2. The injured was 22 years old on the date of accident and he had suffered serious head injury, haemorrhage and fracture. Hence, he approached the Motor Accident Claims Tribunal, Coimbatore with a claim of Rs.10,00,000/-. The Tribunal has awarded Rs.2,39,145/- as compensation. Though the appeal was filed in the year 2009, it was numbered only in the year 2017. No cross appeal is filed by the claimant.

3. The only question that has to be considered is with respect to the quantum of compensation awarded by the Tribunal.

4. Admittedly, the injured was an in-patient for 21 days and he was operated on the skull twice and he underwent serious pain and sufferings and trauma. The Tribunal had awarded a sum of Rs.1,08,643/- towards medical expenses based on Ex.P.9, medical bills. Ex.P.17, the disability certificate was issued by the Doctor. As per the Doctor's certificate, the disability suffered by the injured was 20%. Therefore, the Tribunal has determined the disability at 20% and awarded Rs.20,000/- as compensation under the head "permanent disability". Under the head "pain and sufferings", Rs.50,000/- was awarded, which cannot be challenged, as the injured suffered fracture on the skull and underwent surgery twice with complications. Therefore, this Court is not inclined to disturb the said amount awarded by the Tribunal.

5. So far as the other heads are concerned, Rs.10,000/- for mental shock, Rs.5,000/- for nutritious food and for transportation Rs.2,000/- were awarded, which could not also be challenged, as these are the minimum sums that could be given as compensation. Admittedly, the injured was having an assistant for more than three months, as he could not move on his own. Considering the same, the Tribunal had awarded Rs.13,500/- at the rate of Rs.150/- per day, which is also very minimum. On the ground of loss of amenities, Rs.25,000/- was awarded, considering the fact that the injured had to discontinue his education, in view of the head injury and there had been some complications in his medical conditions.

6. Considering all these above facts, the Tribunal has awarded a total sum of Rs.2,39,145/- as compensation payable with interest 7.5% per annum. Unfortunately, the claimant has not filed any cross appeal for enhancement of compensation and the amount awarded by the Tribunal is very nominal for the injuries sustained by the claimant. Therefore, considering the age and loss of amenities suffered by the claimant, this Court is not inclined to interfere with the compensation awarded by

the Tribunal and the same is hereby confirmed. It is also stated that the award amount has not yet been deposited into Court and the Execution Petition already filed is pending.

7. The award passed by the Tribunal is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. As the award now is confirmed by this Court with interest payable at the rate of 7.5% from the date of claim petition, the claimant will be entitled to the same interest from the date of claim petition till the date of deposit. The appellant-Transport Corporation is directed to deposit the amount awarded by the Tribunal within a period of four weeks from the date of receipt of a copy of this judgement. On such deposit, it is open to the claimant to withdraw the same forthwith. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

srn

To
The III Additional Sub Judge,
The Motor Accident Claims Tribunal,
Coimbatore.

C.M.A. No.913 of 2017
and C.M.P.No.4519 of 2017

ks[co]
srg 6/4/2017

WEB COPY