



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A (MD) No.1277 of 2016

Nagulsamy @ C.Nallusamy
(Unconscious)

: Appellant/petitioner

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam Division II) Ltd.,
Trichy

: Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the Judgment and Decree, dated 31.03.2015 passed in MCOP No.12 of 2014 on the file of the Motor Accident Claims Tribunal (Principal Sub-Court), Karur.

For Appellant : Mr.N.Sudhagar Nagaraj

For Respondent : Mr.D.Sivaraman

JUDGMENT

[Judgment of this Court was made by **K.KALYANASUNDARAM, J.]**

The claimant in MCOP No.12 of 2014 on the file of the Motor Accident Claims Tribunal (Principal Sub Court), Karur, not satisfied with the award of Rs.18,45,600/- preferred this appeal seeking another Rs.20,00,000/- for the injuries sustained in the accident on 26.07.2013.

2.The brief facts necessary for the disposal of this appeal would run thus:-

On 26.07.2013 at 8.00 a.m., the appellant was travelling in a bus belonging to the respondent Corporation. It is alleged that the driver of the bus drove the vehicle in a rash and negligent manner and hit against a Tree. In the impact, the claimant sustained injuries. Immediately, he was admitted to Amaravathi Hospital, Karur and thereafter, he was referred to K.M.C.H.



Hospital, Coimbatore, for better treatment. He preferred the claim petition seeking compensation of Rs.50,00,000/-.

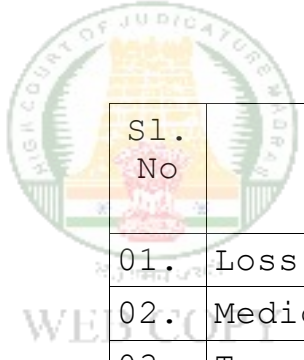
3. Before the Tribunal, the claimant examined his wife as P.W.1 and Dr.K.Kesavamoothi and Dr.K.Karthikeyan as P.W.3 and P.W.4 respectively and marked Exs.P1 to P18 in support of his claim, but on the side of the respondent Transport Corporation, no evidence was let in.

4. The tribunal, after analysing the evidence, both oral and documentary, came to the conclusion that the claimant has suffered 70% permanent disability and he was 35 year old at the time of accident. Since the claimant has not produced any salary certificate, the tribunal has fixed the monthly notional income of the claimant at Rs.4,500/- and by applying multiplier '16' awarded Rs.6,04,800/- towards loss of income, Rs.10,98,800/- towards medical expenses: Rs.12,000/- for transportation: Rs.50,000/- for pain and sufferings: Rs.15,000/- towards nutrition: Rs.25,000/- for loss of amenities and Rs.15,000/- towards attendant charges. In total, Rs.18,45,600/- was awarded. Against the award, this present appeal has been filed as stated supra.

5. Heard **Mr.N.Sudhagar Nagaraj**, learned counsel for the appellant and **Mr.D.Sivaraman**, learned counsel for the respondent and perused the materials available on record.

6. The learned counsel for the appellant, by relying on the judgment of the Hon'ble Supreme Court reported in 2014(1) TN MAG 459 (SC) (Syed Sadiq, etc., Vs. Divisional Manager, United India Insurance Co. Ltd.,) submitted that the income can be taken as Rs.6,000/- per month, for which, learned counsel for the respondent cannot have any serious objection. Hence, the income of the claimant is fixed as Rs.6,000/- and by adding 40% towards future prospects, the income is arrived at Rs.8,400/- per month. The evidence of the Doctor and Ex.P16 Disability Certificate would show that he suffered 70% disability and hence, this Court awards Rs.11,28,960/- (Rs.8,400/- x 12 x 16 x 70/100) towards loss of earning capacity.

7. From the perusal of Ex.P7 medical bills issued by Amaravadhi Hospital, Karur, Ex.P8 medical bills of KMCH, Coimbatore and Ex.P9 medical bills, it is seen that the claimant has spent Rs.10,98,800/- towards medical expenses and the tribunal, accepting the evidence, awarded Rs.10,98,800/-, which was rounded off to Rs.11,00,000/-. Taking into consideration, the nature of treatment and the disability suffered by the claimant, the award is modified as under:-



Sl. No	Particulars	Amount awarded by the Tribunal	Amount awarded by this Court
01.	Loss of Income	Rs. 6,04,800	Rs. 11,28,960
02.	Medical Expenses	Rs. 10,98,800	Rs. 11,00,000
03.	Transportation	Rs. 12,000	Rs. 12,000
04.	Pain and Sufferings	Rs. 50,000	Rs. 1,00,000
05.	Nutrition	Rs. 15,000	Rs. 15,000
06.	Mental agony	Rs. 25,000	Rs. 25,000
07.	Loss of amenity	Rs. 25,000	Rs. 25,000
08.	Attendant charges	Rs. 15,000	Rs. 50,000
	Attendant charges (future)	-	Rs. 50,000
	Total	Rs. 18,45,600	Rs. 25,05,960

8. In the result, this Civil Miscellaneous Appeal is partly allowed. The award is enhanced to **Rs.25,05,960/-** from Rs.18,45,600/- along with interest at the rate of 7.5% p.a. The appellant Insurance Company is directed to deposit the modified amount, less already deposited, within a period of eight weeks from the date of receipt of the judgment copy. On such deposit, the claimant is permitted to withdraw the same. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Subordinate Judge
Motor Accident Claims Tribunal
Karur.
2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.N.Sudhagar Nagaraj, Advocate Sr.No.89051
+1cc to Mr.D.Sivaraman, Advocate Sr.No.88753

AM

VB/SV/MMS/SAR4/09/01/2018/3P/6C

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