



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A. (MD) .No.374 of 2017

and

C.M.P. (MD) .No.4046 of 2017

The Managing Director,
T.N.S.T.C (Madurai) Limited,
Bye-Pass Road, Madurai.

.. Appellant/2nd respondent

Vs.

1.Soosai Selvan @ Selva

.. 1st Respondent/Petitioner

2.R.Raj Kumar(Given up)

3.The Branch Manager,

New India assurance Company Limited,
Nagercoil Branch, Pillars Gate,
Opp. to Anna Stadium, Balamore Road,
Nagercoil,
Kanyakumari District.

.. Respondents 2&3/
Respondents 1&3

Prayer:- Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, against the award and decree made in M.C.O.P.No.3 of 2006, dated 11.04.2012, on the file of the Motor Accident Claims Tribunal/Sub Court, Padmanabhapuram.

For Appellant : Mr.P.Prabhakaran

For R1 : Mr.C.Murugavel

For R3 : Mr.G.Prabhu Rajadurai

Respondent No.2 : Given up

JUDGMENT

The Transport Corporation, which suffered for a sum of Rs.11,24,885/- in M.C.O.P.No.3 of 2006, for the injuries caused to the petitioner/claimant in the motor accident that took place on 30.04.2005, is the appellant.



2. According to the claimant, the accident was caused by the rash and negligent driving of the bus belonging to the appellant Transport Corporation by its driver. The bus came from behind and hit against his motorcycle, as a result of which he was thrown out from the vehicle and the bus ran over his right leg. It is not in dispute that as a result of the injuries, the right leg of the petitioner/claimant has been amputated just above the knee. Though the corporation resisted the claim contending that there is no negligence on the part of its driver, it is seen from the records, namely Ex.P1, the First Information Report and the evidence of RW1 that it is the driver of the bus who was responsible for the accident.

3. The injuries suffered by the claimant are also not in dispute and treatment taken etc., are evidenced by documents. The amputation is also not disputed. Ex.P11, the certificate issued by the medical practitioner shows that he had suffered disability of 85%. Since 85% disability resulted in amputation, the Tribunal had rightly taken it as 100% functional disability and has adopted a multiplier method to arrive loss on income.

4. However, Mr.G.Prabhu Rajadurai, learned counsel for the petitioner would contend that there is no basis for such conclusion of the Tribunal.

5. I am unable to agree with the contention of the learned counsel for the petitioner, considering the avocation of the injured claimant, amputation of leg will definitely result in loss of income. Therefore, I do not see any infirmity in the Tribunal's action as adopting the multiplier method to assess the loss of income. The Tribunal has fixed the monthly income as Rs.4,500/- and after adopting multiplier of 16 has arrived on loss of income at Rs.8,64,000/-; a sum of 50,000/- has been granted for pain and sufferings; a sum of Rs.25,000/- for extra nourishment; a sum of Rs.10,000/- for transportation charges and a sum of Rs.1,73,885/- has been granted towards medical expenses on the basis of the bills produced. Despite his best efforts Mr.G.Prabhu Rajadurai, learned counsel is unable to challenge the award made under each head. Therefore, I see no reason to interfere with the award of the Tribunal and the Civil Miscellaneous Appeal is **dismissed** confirming the award of the Tribunal made in M.C.O.P.No.3 of 2006, dated 11.04.2012. No Costs. Consequently, connected miscellaneous is also dismissed.

Sd/-

Assistant Registrar(CS-III)

/True copy/



To

The Subordinate Judge,
The Motor Accident Claims Tribunal, Padmanabhapuram.

+1 cc to Mr.P.Prabakaran , Advocate in SR.No. 54447

+1 cc to Mr.C.Murugavel , Advocate in SR.No. 54448

+1 cc to Mr.G.Prabhu Rajadurai , Advocate in SR.No. 54842

PJL

AE/MR/SAR3/28.06.2017/3P/5C

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