



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.255 of 2016

and

C.M.P (MD)No.3926 of 2016

The Managing Director,
State Transport Corporation,
Pudukkottai.

... Appellant/Respondent

Vs.

Jeyaraj

...Respondent/Petitioner

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order and decree passed by the Motor Accident Claims Tribunal, Additional District Court, Pudukkottai in M.C.O.P.No.40 of 2014, dated 12.08.2015.

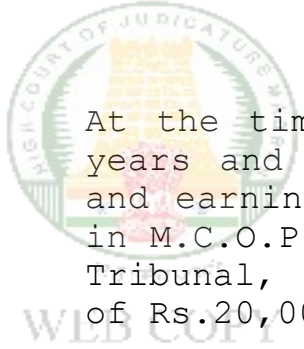
For Appellant : Mr.D.Sivaraman
For Respondent : Ms.R.Karthika

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/State Transport Corporation, against the judgment and decree passed by the Motor Accident Claims Tribunal, Additional District Court, Pudukkottai in M.C.O.P.No.40 of 2014, dated 12.08.2015.

2. The brief facts of the case are as follows:

It is a case of injury took place on 15.11.2013 at about 1.30p.m. While the injured claimant was travelling as a pillion rider in a two wheeler bearing Registration No.TN-55-T-1660 in Rayavaram-Perungudi road, a bus belonging to the State Transport Corporation bearing Registration No. TN-55-N-390, came in a rash and negligent manner and dashed against the two wheeler. Due to the said accident, the injured claimant sustained grievous injuries and there were two fractures in his right leg and grievous injuries in his forehead. Immediately after the accident, he was admitted in a private hospital at Madurai and he was treated as inpatient from 15.11.2013 to 17.12.2013 and he is continuously taking treatment as outpatient. Due to the said accident, the bones below the right leg knee were fully destroyed.



At the time of accident, the injured claimant was aged about 40 years and he was working as a motor fitter in a private company and earning a sum of Rs.20,000/-p.m. Hence, he filed a petition in M.C.O.P.No.40 of 2014, on the file of the Motor Accident Claims Tribunal, Additional District Court, Pudukkottai, claiming a sum of Rs.20,00,000/- as compensation.

3. Before the Tribunal, on the side of the claimants, two witnesses viz., P.Ws.1 and 2 were examined and twelve documents viz., Exs.P.1 to P.12 were marked and on the side of the respondent, one witness viz., R.W.1 was examined and no document was marked.

4.The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel appearing on either side and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the offending vehicle and directed the appellant/Transport Corporation to pay a sum of Rs.8,89,325/-, as compensation.

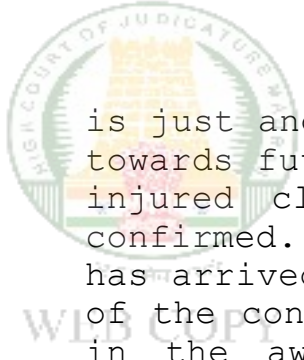
5. Against which, the appellant/State Transport Corporation has filed the present Civil Miscellaneous Appeal.

6. The only contention raised by the learned Counsel for the appellant is only regarding quantum of compensation. The learned Counsel for the appellant would submit that the Tribunal has awarded higher compensation under various heads, and hence, he seeks interference of this Court to the award passed by the Tribunal.

7. The learned counsel for the respondent/claimant would submit that based on the available oral and documentary evidences, the Tribunal has rightly come to the conclusion that the accident had occurred only due to the rash and negligent driving of the tractor owned by the first respondent, which was insured with the appellant Insurance Company and arrived at correct compensation under various heads. He would also draw the attention of this Court, while the Tribunal arrived at loss of income, there is no amount added for future income and there is no amount awarded towards loss of amenities. Hence, he prays for dismissal of this appeal.

8. Heard the learned counsel appearing on both sides and perused the materials available on record.

9. On a reading of the finding of the Tribunal, it is clear that the the injured claimant has sustained 65% permanent disability. Considering the age of the injured claimant Tribunal has adopted multiplier method for arriving the compensation for loss of income, which is in the considered opinion of this Court



is just and proper. However, the Tribunal has not added any amount towards future prospects while granting loss of income. Since the injured claimant has not filed any cross-appeal, the same is confirmed. So far as the other heads are concerned, the Tribunal has arrived at just and proper compensation. Hence, this Court is of the considered view that there is no infirmity or irregularity in the award passed by the Tribunal. Therefore, this Civil Miscellaneous Appeal deserves to be dismissed.

10. In the result, this Civil Miscellaneous Appeal is dismissed and the award made in M.C.O.P.No.40 of 2014, dated 12.08.2015 on the file of the Motor Accident Claims Tribunal, Additional District Court, Pudukkottai is hereby confirmed. The appellant/Transport Corporation is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the injured claimant is permitted to withdraw the entire award amount with accrued interests and costs without filing any formal petition before the Tribunal. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Additional District Judge,
Motor Accident Claims Tribunal,
Additional District Court, Pudukkottai.

+1cc to M/S.D.Sivaraman, Advocate SR.No. 74545

+1cc to M/S.R.Karthika, Advocate SR.No. 74528

C.M.A (MD) No.255 of 2016

and

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