

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.3014 of 2008

and

M.P.No.1 of 2008

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Salem - 2,
Dharmapuri - 5.

... Appellant/ Respondent

.Vs.

Kulandaivel ... Respondent/ Petitioner

Prayer: Civil Miscellaneous Appeal filed against the Award made in MCOP.No.492 of 2006 dated 15.11.2007 on the file of the Motor Accidents Claims Tribunal and Additional District Court at Dharmapuri.

For Appellant :: Mr.D.Venkatachalam
For Respondent :: Mr.M.Selvam

J U D G M E N T

The appellant is the respondent in MCOP.No.492 of 2006 on the file of the Additional District Judge, Motor Accident Claims Tribunal at Dharmapuri. The 1st respondent/claimant filed the above petition claiming compensation for the injuries sustained by him in a road accident that took place on 15.08.2005.

2.The brief case of the 1st respondent/claimant is as follows:

On 15.08.2005, the 1st respondent/claimant was riding his bicycle along Pennagaram road. At about 7 PM, a speeding bus bearing Reg. No.TN 29 N 1013, belonging to the appellant, hit the bicycle, as a result of which, the 1st respondent/claimant sustained injuries. Immediately, he was rushed to Government Hospital at Dharmapuri. According to the 1st respondent/claimant, he was earning a sum of Rs.7,000/- per month and that on account of the accident, he sustained permanent disability. Therefore, he sought compensation of Rs.5,00,000/- from the appellant/respondent.

3.The appellant filed a counter affidavit before the trial court, denying all the allegations of the 1st respondent/claimant.

4.The Tribunal after analysing the facts and circumstances of the case, awarded a compensation of Rs.1,20,000/- with interest at the rate of 7.5% per annum to the 1st respondent/claimant. Aggrieved over the quantum of compensation awarded by the Tribunal, the Managing Director of Tamil Nadu State Corporation has filed the present appeal.

5.Mr.D.Venkatachalam, learned counsel appearing for the appellant would contend that when the 1st respondent/claimant sustained only a fracture of bones and no operation was performed, the trial Court was not justified in adopting the multiplier method. He therefore would contend that the award passed by the trial Court is on the higher side.

6.Per contra, Mr.M.Selvam, learned counsel appearing for the respondent would contend that since the 1st respondent/claimant was a tailor by profession, multiplier method adopted by the trial Court is perfectly in order.

7.A perusal of the medical records shows that the 1st respondent/claimant sustained a fracture on right leg and right shoulder and there is nothing to infer that the injuries sustained by the 1st respondent/claimant had permanently disabled him from doing any work. Therefore, from the facts and circumstances of the case, the multiplier method adopted by the trial Court is not justified.

8.The award amount is thus revised.

(i).Permanent disability:

The 1st respondent/claimant is entitled to a sum of Rs.2,000/- per percentage for 30% of disability. Therefore the compensation for permanent disability works out to Rs.60,000/- (30 x Rs.2,000/-).

(ii).Pain and sufferings:

As far as pain and suffering is concerned, the trial Court awarded a sum of Rs.10,000/-. In my opinion, it has to be enhanced to Rs.20,000/-

(iii).Extra nourishment:

The trial Court has awarded a sum of Rs.1,000/-. Since this is too meagre, it is enhanced to Rs.5,000/-

(iv).Transportation:

As far as Transportation is concerned, the trial Court has awarded a sum of Rs.1,000/-. In my opinion, it has to be enhanced to Rs.6,000/-, considering the nature of injuries sustained by the claimant.

(v).Loss of income during treatment period:

According to the 1st respondent/claimant, he was earning a sum of Rs.7,000/- per month as a tailor. Since no proof was adduced and the accident took place in the year 2005, notional income of the claimant is fixed as Rs.4,500/- per month. On account of accident, the 1st respondent/claimant would not have been in a position to do any work atleast for 2 months and therefore, a sum of Rs.9,000/- is awarded towards loss of income.

9.Thus the revised award amount is extracted hereunder:

Head	Amount (Rs.)
Permanent disability	60000
Pain and suffering	20000
Extra nourishment	5000
Transportation	6000
Loss of income	9000
Total	100000

10.Hence, the total compensation payable in this case is Rs.1,00,000/- together with interest at the rate of 7.5% per annum from the date of the claim petition. It is brought to the notice of this Court that the appellant/respondent has so far deposited a sum of Rs.75,000/-. The appellant is therefore directed to deposit the balance amount together with interest, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st respondent/claimant is at liberty to withdraw the same, after following necessary procedures.

11.With the above observations, the appeal is allowed. Consequently, connected miscellaneous petition is dismissed. No costs.

sai

Sd/-

Assistant Registrar(CS viii)

//True Copy//

Sub Assistant Registrar

To

The Additional District Judge,
Motor Accident Claims Tribunal,Dharmapuri.

Copy to :

The section officer,VR Section,High court,Madras
+1cc to Mr.D.Venkatachalam,Advocate SR.No. 81068

C.M.A.No.3014 of 2008

A.SK(15/03/2019)