



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2018

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1131 of 2008

and

M.P.No.1 of 2008

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Salem Division,
Dharmapuri Region, Bharathipuram,
Dharmapuri Taluk and District.

... Appellant

..Vs..

Jilan

...Respondent

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award made in MCOP No.1325 of 2006 dated 05.04.2007 on the file of the Motor Vehicles Accident Claims Tribunal and Chief Judicial Magistrate II at Krishnagiri (in-charge).

For Appellant : Mr.D.Venkatachalam

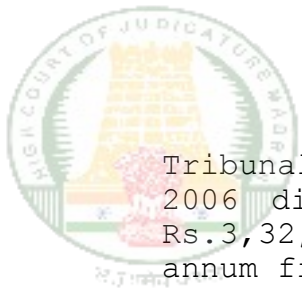
For Respondent : No appearance

J U D G M E N T

The instant appeal has been filed by the Transport Corporation challenging the Award dated 05.04.2007 passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate II), Krishnagiri in its Judgment and Decree passed in M.C.O.P No.1325 of 2006.

The brief facts leading to the filing of the instant appeal are as follows.

2. The respondent sustained injuries as a result of an accident that took place on 14.02.2005 caused by a bus bearing registration No.TN29 M 1508 owned by the Appellant/Transport Corporation. The respondent preferred a compensation claim before the Motor Accident Claims Tribunal, Chief Judicial Magistrate II, Krishnagiri in MCOP. No.1325 of 2006. The



Tribunal by its Award dated 05.04.2007 passed in MCOP No.1325 of 2006 directed the Appellant to pay the respondent a sum of Rs.3,32,109/- together with interest at the rate of 7.5 % per annum from the date of claim till the date of realisation.

WEB COPY

3. Aggrieved by the Award dated 05.04.2007 passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate II, Krishnagiri in MCOP. No.1325 of 2006, the instant appeal has been filed by the Appellant / Transport Corporation.

4. Heard Mr.D.Venkatachalam learned counsel for the Appellant. Despite service of notice on the respondent and the counsel having entered appearance, none appears on the side of the respondent today.

5. According to the learned counsel for the Appellant, the primary ground for challenge in the instant appeal is that the Tribunal under the impugned Award has erroneously adopted the multiplier method to calculate the loss of earning capacity of the respondent.

6. As seen from the impugned Award, the respondent sustained fracture on the right femur and right hip damaging his rib. Even though the respondent had filed a disability certificate which was marked as exhibit, to establish that he had suffered 45% disability, the Tribunal has assessed the disability of the respondent only at 37%. The income of the respondent was also assessed at Rs.3,500/- per month, after taking into consideration of his business namely the business of manufacturing Sofa sets. At the time of Accident, the respondent was aged about 22 years.

7. Though the respondent had made a claim for a sum of Rs.7,00,000/- before the Tribunal, the Tribunal after taking into consideration the oral and documentary evidence, has passed the Award only for a sum of Rs.3,32,109/- in favour of the respondent. The evidence placed before the Tribunal by the respondent which resulted in the impugned Award has not been controverted by the appellant before the Tribunal by producing contra evidence.

8. Considering the nature of the injuries suffered by the respondent, this Court is of the considered view that the Tribunal has rightly applied the multiplier method for assessing the loss of earning capacity of the respondent. This Court does not find any merit in the Appeal. Accordingly, the Appeal is dismissed. The Appellant is directed to deposit the Award amount together with interest at the rate of 7.5 % per annum from the date of claim till the date of realisation to the credit of MCOP. No.1325 of 2006 on the file of the Motor Vehicles Accident



Claims Tribunal and Chief Judicial Magistrate II at Krishnagiri within a period of four weeks from the date of receipt of a copy of this Order and the respondent is permitted to withdraw the deposited amount by filing an appropriate application before the Tribunal. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

nl

To

1. The Motor Accident Claims Tribunal
(Chief Judicial Magistrate)
Salem.

Copy To

The Record Clerk,
VR Section, High Court,
Chennai.(2 Copies)

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.58176

C.M.A.No.1131 of 2008 &
M.P.No.1 of 2008

PPA(CO)
CS/13/12/2018