

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2037 of 2010
and
M.P.No.1 of 2010

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Coimbatore Division,
Chennimalai Road, Erode,
Erode - 2.

..Appellant/2nd Respondent

Vs

1. C.Ravi

2. Sankar

.. Respondents/Claimant/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award made in M.C.O.P.No.387 of 2008 dated 07.12.2009 on the file of the Motor Vehicles Accident Claims Tribunal, I Additional District Judge, Erode.

For Appellant : Mr.K.J.Sivakumar
For Respondents : Mr.R.Nalliyappan [for R1]
R2 - Given up

J U D G M E N T

The instant appeal has been filed by the Transport Corporation challenging the Award dated 07.12.2009 passed by Motor Accident Claims Tribunal, I Additional District Judge, Erode in M.C.O.P.No.387 of 2008.

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

(i) The first respondent sustained injuries on 01.03.2007 as a result of an accident caused by a bus bearing registration No.TN-33-N-0982 owned by the Appellant/Transport Corporation. The first respondent preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.387 of 2008 seeking

a compensation of Rs.4,40,000/- which was restricted Rs.3,10,000/-.

(ii) The Motor Accident Claims Tribunal by its Award dated 07.12.2009 passed in M.C.O.P.No. 387 of 2008 directed the Appellant to pay the first respondent a sum of Rs.2,97,263/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realization.

3. Aggrieved by the Award dated 07.12.2009 passed by the Motor Accident Claims Tribunal in M.C.O.P.No.387 of 2008, the instant Appeal has been filed by the Transport Corporation.

4. Heard Mr.K.J.Sivakumar, learned counsel for the Appellant and Mr. R.Nalliyappan, learned counsel for the first respondent.

5. According to the learned counsel for the Appellant, the Tribunal has erroneously adopted the multiplier method for calculating the compensation even though, the first respondent has sustained only 27% disability and has also erroneously assessed the monthly income of first respondent at Rs.4,000/-.

6. Per contra, the learned counsel for the first respondent would submit that the first respondent was aged 24 years at the time of accident and was earning a monthly income of Rs.4,500/- as a building supervisor. Even though, the first respondent had made a claim for Rs.3,10,000/- before the Tribunal, the Award passed by the Tribunal was only for a sum of Rs.2,97,263/-

7. According to learned counsel, the Tribunal has rightly applied the multiplier method, considering the fractures sustained by him on both bones in the right leg.

8. This Court after having considered the materials available on record and after examining the impugned award and after hearing the submissions of the respective counsel observes the following:

(a) The accident happened on 01.03.2007. In the claim petition, the first respondent has claimed that he was earning monthly income of Rs.4,500/- at the time of accident. He was a building supervisor and was aged 24 years at the time of accident. Even though, the first respondent has claimed Rs.4,500/- as his monthly income, the Tribunal has assessed the monthly income of the first respondent at Rs.4,000/-.

(b) The first respondent has filed 11 documents

before the Tribunal which were marked as Exs.P.1 to P.11. The documents included Wound certificate, Medical Bills, Discharge summary, Hospital Chit, X-ray, Disability Certificate and Salary Certificate. The first respondent also examined 4 witnesses on his side including himself, the Doctor and eye-witness and the Manager of his employer. On the side of the Appellant, no documents have been filed and they have examined only one witness.

9. This Court is of the considered view that the nature of injuries sustained by the first respondent would have affected his work as a building contract supervisor. Therefore, this Court is of the considered view that the Tribunal has rightly adopted the multiplier method, while assessing the compensation payable to the first respondent. The Award passed by the Tribunal is a reasoned and well considered Award.

10. In the light of the above observations, this Court is of the considered view that there is no merit in the instant appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently Miscellaneous Petitions is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

ebsi/Bri

To

1. The I Additional District Judge,
Motor Accident Claims Tribunal,
Erode.

Copy To

The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to Mr.R.Nalliyappan, Advocate SR.No.62279

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GMV (22/10/2018)