

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2086 of 2010

The Managing Director,
Tamil Nadu State Transport Corporation Ltd,
Division II, Chennimalai road,
Erode.

...Appellant/Respondent

Vs

R.Ramasamy

... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award made in MCOP.No.1483 of 2007 dated 01.07.2009 on the file of the Motor Accident Claims Tribunal, (Principal Sub Judge)Tiruppur.

For Appellant : Mr.K.J.Sivakumar

For Respondent : Mr.D.Rajendran
for Mr.Ma.P.Thangavel

JUDGMENT

The instant appeal has been filed by the Transport Corporation challenging the award dated 01.07.2009 passed by the Motor Accident Claims Tribunal (Principal Sub Judge) Tiruppur, in MCOP.No.1483 of 2007.

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

(i) The respondent sustained injuries, as a result of an accident caused by a Bus bearing Registration No.TN33N2022, owned by the Appellant Transport Corporation. The respondent preferred a claim before the Motor Accidents Claims Tribunal (Sub Judge) Tiruppur, in MCOP.No.1483 of 2007, seeking compensation of Rs.11,78,500/-, which was restricted to Rs.7,00,000/-.

(ii) The Motor accident Claims Tribunal (Sub Judge) Tiruppur by its award dated 08.07.2009 passed in MCOP.No.1483 of 2007 directed the appellant to pay the respondent a sum of Rs.3,84,410/- towards with interest at 7.5% per annum from the date of claim till the date of realisation and also awarded the

costs.

3. Aggrieved by the said award dated 08.07.2009 passed in MCOP.No.1483 of 2007 by the Tribunal, the instant appeal has been filed by the Transport Corporation.

4. Heard Mr. K.J.Sivakumar, learned counsel appearing for the appellant and Mr.D.Rajendran, learned counsel appearing for the respondent.

5. According to the learned counsel for the appellant, the primary ground for challenge in the instant appeal is that the Tribunal has erroneously applied the multiplier method. Even though the respondent had sustained 36% disability, the doctor, who treated him, was not examined before the Tribunal on the side of the respondent.

6. Per contra, the learned counsel for the respondent submits that the respondent was a Supervisor in a Motor Compressor Service Centre. He sustained left tibia fracture on the left hand, fracture in fourth finger, and also sustained left thigh mandible fracture as a result of the accident. The learned Counsel for the respondent further submits that being a service mechanic, due to the disability sustained by the respondent his earning capacity got drastically reduced and he has also lost his future prospects. Therefore, according to the learned counsel, the compensation awarded by the Tribunal in favour of the respondent is a just compensation.

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

a. The injuries sustained by the respondent as a result of the accident have not been disputed by the appellant before the Tribunal.

b. There is a clear finding given by the Tribunal that only due to the rash and negligent driving by the Driver of the bus, the accident had happened.

c. the respondent has filed eight documents in support of his claim, including medical bills, prescription, wound and disability certificates. Admittedly, the respondent has suffered 36% disability as a result of the accident.

8. Considering the nature of the injuries sustained by the respondent and taking into account of his avocation as a service mechanic, this Court is of the considered view that the respondent would certainly, have lost his earning capacity. Therefore, the Tribunal has rightly applied the multiplier method to assesses the compensation payable to the respondent towards loss of earning.

9. In the light of the above observation, this Court is of the considered view that there is no merit in the instant appeal. Accordingly, the appeal is dismissed. The Appellant is directed to deposit the award amount, after deducting the amount already deposited, if any, within a period of four weeks from the date receipt of a copy of this order. On such deposit being made, the respondent is permitted to withdraw the entire award amount by filing an appropriate application. No costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

tta/rts
To

1. The Motor Accident Claims Tribunal,
The Principal Sub Judge, Tiruppur.
2. The Record Clerk,
VR Section,
Madras High Court.

+1 CC to Mr.K.J. Sivakumar, Advocate sr 62513.

+1 CC to Mr.Ma.P. Thangavel, Advocate sr 63139.

C.M.A.No.2086 of 2010

NM(CO)
SP(31/10/2018)

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