

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.3637 of 2008

and

M.P. No.1 of 2008

The Branch Manager,
Tamil Nadu State Transport
Corporation Limited,
Kumbakonam Division II,
Trichy.

... Appellant/1st Respondent

...Vs...

1. Marudhammal ... 1st Respondent/ petitioner

2.Natarajan
(Given up in appeal) ... 2nd Respondent/2nd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, against the award made in MCOP No.97 of 2006 dated 28.11.2007 on the file of the Motor Vehicles Accident Claims Tribunal and Sub Court at Attur.

For Appellant	: Mr.D.Venkatachalam
For Respondent 1	: Mr.P.Jagadeesan
For Respondent 2	: Given up

J U D G M E N T

The instant appeal has been filed by the Transport Corporation challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal (Sub Court at Attur) in M.C.O.P. No.97 of 2006 on 28.11.2007.

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

2. The first respondent sustained injuries as a result of an accident that took place on 08.09.2005 caused by a bus bearing Registration No.TN-45-N-1364 owned by the appellant, Transport Corporation. The first respondent preferred a compensation claim before the Motor Accident Claims Tribunal in MCOP No. 97 of 2006 seeking a

compensation of Rs.10,00,000/-. The Motor Accident Claims Tribunal by its award dated 28.11.2007 directed the appellant to pay the first respondent a sum of Rs.2,50,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.

3. Aggrieved by the Award dated 28.11.2007 passed by the Motor Accident Claims Tribunal, the instant appeal has been filed by the Transport Corporation.

4. Heard Mr.D.Venkatachalam, learned counsel for the appellant and Mr.P.Jagadeesan, learned counsel for the first 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 awarded a sum of Rs.45,000/- towards loss of earning capacity for the injured first respondent. According to the learned counsel for the appellant, the first respondent sustained only 25% disability and therefore, the Tribunal ought not to have awarded the compensation under the head loss of earning capacity.

6. Per contra, the learned counsel for the first respondent would submit that the first respondent was an agricultural labourer, at the time of the accident and he suffered fractures in the hand as well as in the leg and considering the nature of his avocation, the Tribunal has rightly awarded compensation towards loss of earning capacity in favour of the first respondent.

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

a) The nature of injuries sustained by the first respondent as a result of an accident is not disputed by the appellant.

b) The first respondent had made a claim for a sum of Rs.10,00,000/-, but the Tribunal has awarded only a sum of Rs.2,50,000/- under the impugned award.

c) Considering the fact that the first respondent was an agriculturist which requires physical activity and having suffered two fractures and multiple injuries all over the body, the Tribunal has rightly awarded a sum of Rs.45,000/- towards loss of earning capacity to the first

respondent.

8. 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 Appeal is dismissed without costs. Consequently connected Miscellaneous Petition closed.

9. The Appellant is directed to deposit the amount awarded by the Tribunal together with interest, after deducting the amount that has already been deposited, to the credit of MCOP No.97 of 2006 on the file of the Motor Vehicles Accident Claims Tribunal and Sub Court at Attur, within a period of four weeks from the date of receipt of a copy of this Order. On such deposit being made, the first respondent is permitted to withdraw the amount lying to the credit of MCOP No.97 of 2006 on the file of the Motor Vehicles Accident Claims Tribunal and Sub Court at Attur by filing an appropriate application.

Sd/--

Assistant Registrar(Ccc)

//True Copy//

Sub Assistant Registrar

gsi/nl
To

1.The Motor Vehicles Accident Claims Tribunal,
Sub Court, Attur.

2.The Record Clerk,
VR Section,
High Court, Madras.

+1cc to Mr.P.Jagadeesan , Advocate SR.No. 61190

+1cc to Mr.D.Venkatachalam , Advocate SR.No. 61489

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ASK(15/11/2018)

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