

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CMA.No.3997 of 2008

and

MP.No.1 of 2008

The Managing Director,
Tamilnadu State Transport
Corporation, Ltd.,
Coimbatore.

...Appellant/2nd Respondent

Vs

1.Soundara Rajan

2.Pethi Durai-Driver,
Tamilnadu State Transport
Corporation, Ltd.,
Udumalpet.

3.New India Insurance Co. Ltd.,
Udumalpet.

...Respondents 2 & 3/
Respondents 1 & 3

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 08.01.2007 made in M.C.O.P.No.120 of 2005 on the file of the Motor Accident Claims Tribunal, Sub Court, Udumalpet.

For Appellant : Mr.V. Ramesh

For Respondents : Mr.R.Babu
for M/s.P.Indumathy for R1
R2 & R3 - No appearance

O R D E R

The instant appeal has been filed challenging the Award dated 08.01.2007, passed by the Motor Accident Claims Tribunal, Sub Court, Udumalpet in M.C.O.P.No.120 of 2005.

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

The first respondent sustained injuries as a result of the accident caused by a bus bearing Registration No.TN38 N 0770 owned by the Appellant Transport Corporation. The first respondent preferred a claim before the Motor Accident Claims Tribunal, Sub Court, Udumalpet in MCOP No.120 of 2005 against the Appellant seeking a compensation of Rs.10,00,000/-, which was restricted to Rs.5,00,000/- for the injuries sustained by him on account of the accident. The Motor Accident Claims Tribunal by its Award 08.01.2007 in MCOP No.120 of 2005, directed the Appellant to pay the first respondent a sum of Rs.1,78,000/- together with interest at 7.5% per annum from the date of claim till date of realization and also awarded cost of Rs.6,561.50.

3.Aggrrieved by the Award dated 08.01.2007 in MCOP No.120 of 2005, the instant appeal has been filed by the Transport Corporation.

4.Heard Mr.V.Ramesh, learned Counsel for the Appellant and Mr.R.Babu, learned Counsel for the third respondent.

5.The primary ground for challenge in the instant appeal is that the Tribunal has erroneously calculated the compensation payable to the first respondent towards loss of income for a period of eight years.

6.According to the learned Counsel for the Appellant, loss of income for the said injury can be calculated only for three month since, the first respondent took medical treatment on account the injuries sustained by him only for a period of twenty days.

7.Per contra, learned counsel for the first respondent/claimant submits that even though the claim was made for a sum of Rs.10,00,000/- restricted to Rs.5,00,000/- only a sum of Rs.1,78,000/- was awarded by the Tribunal. Even though in the claim petition, the first respondent/claimant had disclosed that his monthly income was only Rs.7,000/-, the Tribunal has fixed the monthly income of the first respondent/claimant was only at Rs.500/- under the impugned Award. Further, the learned Counsel drew the attention of this of Court to the injuries sustained by the first respondent/claimant. According to him, as seen from the impugned Award, the first respondent has sustained scull fracture due to the accident which is a grievous injury.

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 counsels observes the following:

(a) In the considered view of this Court, the Tribunal has fixed the monthly salary of the first respondent/claimant at a paltry sum of Rs.500/- though the first respondent/claimant had claimed a sum of Rs.7000/- as his monthly salary in the claim petition.

(b) It is an undisputed fact as seen from the Award that the first respondent has sustained a skull fracture and had to undergo hospitalization for twenty days. Having sustained a skull fracture, the first respondent/claimant would certainly have suffered loss of income for a long period of time. In order to recuperate and recover from his injury, it would have taken considerable amount of years to get back to normalcy.

9. In view of the above observations, this Court is of the considered view that the compensation awarded to the first respondent under the impugned Award is a just compensation. Accordingly, there is no merit in the instant appeal.

10. In the result, the appeal shall stand dismissed. The first respondent is permitted to withdraw the amount deposited by the Appellant before the Tribunal by filing an appropriate application. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge,
The Motor Accident Claims Tribunal,
Udumalpet.

+1cc to M/s.P.Indumathy, Advocate, S.R.No.56134

CMA. No.3997 of 2008
and
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KJI (CO)
CS/14/09/18