

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2792 of 2018
and C.M.P.No.21298 of 2018

Tamil Nadu State Transport
Corporation, Kumbakonam
Represented by its Managing Director
Railway station road
Kumbakonam. ... Appellant/2nd Respondent

Vs.

1.Manikandan ... 1st Respondent/Petitioner

2.Singaravel ... 2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the judgment and decree dated 21.12.2017 made in M.C.O.P.No.133 of 2016 on the file of the Motor Accidents Claims Tribunal, Sub Court, Karaikal.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the Transport Corporation challenging the quantum of compensation awarded by the Tribunal in the award dated 21.12.2017 made in M.C.O.P.No.133 of 2016 on the file of the Motor Accidents Claims Tribunal, Sub Court, Karaikal.

2. The appellant/Transport Corporation is second respondent in M.C.O.P.No.133 of 2016 on the file of the Motor Accidents Claims Tribunal, Sub Court, Karaikal. The first respondent/claimant filed the said M.C.O.P. claiming a sum of Rs.50,00,000/- as compensation for the injuries sustained by him in the accident that took place on 13.01.2016.

3.The Tribunal after considering the pleadings, oral and documentary evidence, held that the accident occurred only due to the rash and negligent driving of the second respondent herein/driver of the bus belonging to the appellant/Transport Corporation, awarded a total sum of Rs.6,23,200/- as compensation and directed the appellant/Transport Corporation to pay the said compensation to the first respondent.

4.Against the said award of the Tribunal, dated 21.12.2017 made in M.C.O.P.No.133 of 2016 on the file of the Motor Accidents Claims Tribunal, Sub Court, Karaikal, the appellant/Transport Corporation has come out with the present Civil Miscellaneous Appeal challenging the quantum of compensation.

5.The learned counsel appearing for the appellant contended that the Tribunal erred in fixing exorbitant amount of Rs.6,500/- per month as notional income of the first respondent, when the first respondent failed to prove the avocation and income earned by him. The Tribunal without properly appreciating the evidence of P.W.2/Doctor, accepted his evidence with regard to percentage of disability and erred in awarding higher compensation towards permanent disability as well as loss of earning capacity and prayed for setting aside the award passed by the Tribunal.

6.I have heard the learned counsel appearing for the appellant and perused the materials available on record.

7.From the materials on record, it is seen that the first respondent/claimant has examined P.W.2/Doctor to prove the nature of injuries sustained by him and percentage of disability. P.W.2/Doctor has verified Ex.P11/discharge summary, Ex.P13/x-ray taken at the time of examination, clinically examined the first respondent and issued Ex.P12/disability certificate. P.W.2/Doctor has given details of the injuries and assessed the disability suffered by the first respondent at 52%. From the award of the Tribunal, it is seen that the Tribunal in the absence of evidence to prove the monthly income of the first respondent, fixed a sum of Rs.6,500/- per month as notional income of the first respondent and applied multiplier 17 as the first respondent was aged 30 years at the time of the accident. The Tribunal reduced the percentage of disability assessed by the Doctor from 52% to 48% and granted compensation for $\frac{1}{3}$ rd of 48% disability. Thus, the Tribunal considering the evidence of P.W.2 with regard to disability, has awarded a sum of Rs.2,12,160/- ($6500 \times 12 \times 17 \times \frac{1}{3} \times 48\%$) towards disability and loss of income. The amounts awarded by the Tribunal under

all the other heads are not excessive. In the above circumstances, this Court is not inclined to interfere with the award passed by the Tribunal.

8. In the result, the award passed by the Tribunal is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. The appellant/Transport Corporation is directed to deposit the award amount granted by the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent/claimant is permitted to withdraw the award amount along with interest and costs, after adjusting the amount, if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kj

To

The Motor Accident Claims Tribunal,
The Subordinate Judge, Karaikal.

+2 cc's to Mr.D.Venkatachalam, Advocate Sr.Nos.81069,82758

Copy To:

The Section Officer,
V.R.Section, High Court, Madras.

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RK(CO)
CSL/27.02.2019

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