



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.516 of 2018
and
C.M.P(MD)No.6085 of 2018

The General Manager,
Tamil Nadu State Transport Corporation,
Karaikudi,
Sivagangai District.

... Appellant/Respondent

Vs.

Karunakaran

... Respondent/Petitioner

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree made in M.C.O.P.No.46 of 2013, dated 27.10.2017, on the file of the Motor Accident Claims Tribunal, Sub Court, Paramakudi.

For Appellant : Mr.P.Prabhakaran

JUDGMENT

This civil miscellaneous appeal is directed against the award passed by the learned Subordinate Judge, Motor Accident Claims Tribunal, Paramakudi, in M.C.O.P.No.46 of 2013, dated 27.10.2017.

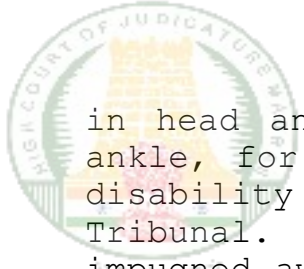
2. Heard the learned Counsel appearing for the appellant / Transport Corporation and perused the records carefully.

3. By consent, this civil miscellaneous appeal is taken up for final disposal at the stage of admission itself. Notice to the respondent is dispensed with, as no adverse order is going to be passed in this civil miscellaneous appeal.

4. It is a case of injury. The accident occurred on 21.09.2010 and the tribunal has awarded a sum of Rs.7,59,054/-, as compensation and aggrieved over the same, the appellant / Transport Corporation is on appeal before this Court.

5. The manner of the accident as well as the liability are not disputed, however, the quantum is disputed.

6. On a perusal of record, it is seen that the claimant, in consequence to the accident in question, sustained grievous injuries



in head and multiple fractures in left hand, left shoulder, left ankle, for which, he underwent several surgeries and in total, 60% disability was assessed by the Doctor, which was proved before the Tribunal. It was discussed elaborately at paragraph No.8 of the impugned award. It is seen that the claimant was about 20 years old at the time of accident and was doing I.T.I. (Electrician). With 60% disability, it is hard for anyone to resume normal work activities. For his remaining life period, the claimant has to live with this pain, which can never be compensated in terms of money. However, the Tribunal has awarded a sum of Rs.1,80,000/- towards disability, by awarding Rs.3,000/- per percentage of disability. Going by the nature of injuries, according to this Court, the Tribunal ought to have applied multiplier method, instead of awarding Rs.3,000/- per percentage of disability.

7. It is also seen from the records that a sum of Rs.50,000/- was awarded towards pain and sufferings, which, in my considered opinion, is very very meagre, comparing to the affliction faced by the claimant.

8. However, as rightly contended by the learned Counsel for the appellant / Transport Corporation, the Tribunal ought not to have awarded a sum of Rs.1,00,000/- towards loss of future earning capacity.

9. It is a simple math that by adopting multiplier method for calculating compensation towards disability; enhancing the compensation towards pain and sufferings and reducing the compensation towards future earning capacity, the overall compensation will be on the higher side. Since the appeal is preferred by the Transport Corporation, this Court is not inclined to interfere with the award passed by the Tribunal.

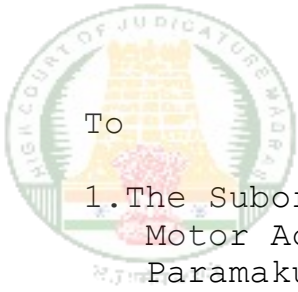
10. In view of the foregoing discussions, this civil miscellaneous appeal is liable to be dismissed and the same is accordingly dismissed. The award passed by the tribunal stands confirmed. The appellant / Transport Corporation is directed to deposit the entire award amount with accrued interest @ 7.5% and costs, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any. On such deposit being made, the claimant is permitted to withdraw the same, without filing any formal application. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

/True copy/

Sub Assistant Registrar(CS-II)



To

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

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

+1cc to Mr.P.Prabhakaran, Advocate, SR.No.72634.

C.M.A(MD) No.516 of 2018
12.07.2018

gk

RAM/PN/SAR 2/26.07.2018/3P/5C