



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CMA(MD).No. 210 of 2019 and CMP(MD).No. 7345 of 2019

Tamil Nadu State Transport Corporation

Karaikudi,

rep. by its Managing Director,

Kumbakonam Division.

: Appellant / respondent

Vs.

P.Prem Ananth

: Respondent / Petitioner

Prayer: This Civil Miscellaneous Appeal is filed against the Award and Decree made in MCOP.No.16 of 2018, dated 12.12.2018, on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate, Sivagangai.

For Appellant : Mr. P. Prabhakaran

For Respondent : Mr. K.P. Ramesh

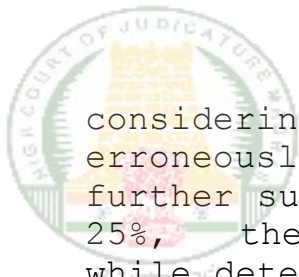
JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Award made in MCOP.No.16 of 2018, dated 12.12.2018, on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate, Sivagangai, by the appellant / Transport Corporation.

2. According to the respondent / claimant, while he was travelling in the bus belonging to the appellant / Transport Corporation bearing Regn. No. TN 63 N 1163 on 01.03.2017, the driver of the bus drove the vehicle in a rash and negligent manner without adhering to the traffic rules and capsized the bus, due to which, the respondent / claimant sustained multiple injuries. Therefore, he filed the claim petition claiming a sum of Rs.5,00,000/- as compensation.

3. The Tribunal, after considering the pleadings and the oral and documentary evidence let in by both sides, came to the conclusion that the accident took place only due to the rash and negligent driving by the driver of the bus belonging to the appellant / Transport Corporation and awarded a sum of Rs.3,65,050/- as compensation. As against the said Award, the appellant / Transport Corporation has filed the present Civil Miscellaneous Appeal.

4. The learned counsel appearing for the appellant submitted that the Tribunal fixed a sum of Rs.7,500/- as notional income of the claimant without any income proof. He further contended that at the time of accident, the injured was aged about 46 years and the accident has occurred on 01.03.2017 and



considering the same, the Tribunal, without any income proof, has erroneously fixed the notional income as Rs.7,500/-. He would further submit that though the disability of the claimant was only 25%, the Tribunal has erroneously adopted multiplier method while determining the loss of income of the injured. According to the appellant, the Tribunal ought to have awarded a sum of Rs.3,000/- per percentage of disability. On the other hand, the Tribunal wrongly applied multiplier method.

5. The learned counsel appearing for the respondent / claimant would submit that the injured was 46 years old at the time of accident and the Tribunal has correctly determined the notional income of the deceased as Rs.7,500/-. He would further submit that the Hon'ble Supreme Court even for the accident occurred in the year 2008, has fixed Rs.6,500/- as notional income and therefore, the Tribunal ought to have fixed more than Rs.7,500/- as notional income of the injured claimant, in the impact of the Judgment of the Hon'ble Supreme Court and the present cost of living. But, the Tribunal has taken only lesser amount. However, he is agreeable for the award passed by the Tribunal.

6. I have heard the learned counsel appearing on either side and perused the materials available on record.

7. In this case, before the accident, the claimant was stated to be working in a Textile shop and earning Rs.10,000/- as monthly income. The accident is of the year 2017. At the time of the accident, the claimant was aged about 46 years. In case of **Syed Sadiq and others Vs. Divisional Manager, United India Insurance Company Limited**, reported in **2014 ACJ 627**, the Hon'ble Supreme Court has taken Rs.6,500/- p.m. as notional income of the deceased therein, without any income proof. Considering the age of the claimant, year of the accident, the nature of the job of the claimant and also the escalation of prices, the Tribunal has taken a sum of Rs.7,500/- as notional income of the claimant. This Court does not find any reason to interfere with the said finding of the Tribunal.

8. So far as the adoption of multiplier method is concerned, this Court as well as the Hon'ble Supreme Court in number of cases have time and again held that even in appropriate cases of injury, multiplier method can be applied. In this case, due to accident, the claimant has sustained fracture on the Cervical spine and multiple injuries on all over his body. It is stated by the claimant that even after treatment, the petitioner is not able to move his neck freely and frequently, he feels giddiness. As per Ex.C1, the disability certificate issued by the District Medical Board, Sivagangai Government Medical College



Hospital, the claimant is suffering 25% of disability. Considering the nature of the injuries sustained by the claimant and also considering the nature of the job of the claimant, this Court is of the view that the Tribunal has rightly adopted multiplier method. There is no merit in the contention of the learned counsel for the appellant. In view of the above, this Court is inclined to confirm the award passed by the Tribunal.

9. In the result, the Civil Miscellaneous Appeal is dismissed confirming the award passed by the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Sivagangai, made in MCOP.No.16 of 2018, dated 12.12.2018.

10. The appellant / Transport Corporation is directed to deposit the entire award amount together with interest at 7.5% per annum from the date of petition till the date of deposit to the credit of MCOP.No.16 of 2018, on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate, Sivagangai, less the amount already deposited if any, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the amount to the respondent / claimant directly to the Bank account through RTGS within a period of three weeks, thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

trp

To

The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal Sivagangai.

Copy to

The Section Officer, VR Section-2 copies
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-93189[F] dated 21/10/2019)

+2 CC to M/s.K.P.RAMESH, Advocate (SR-93580[F] dated 22/10/2019)

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