



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2019

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.624 of 2019

and

C.M.P(MD)No.7687 of 2019

The General Manager
Tamil Nadu State Transport Corporation
Madurai Road
Virudhunagar

... Appellant/Respondent

vs.

R.Irulappan

...Respondent/Claimant

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.89 of 2018 dated 11.02.2019 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Virudhunagar Camp at Srivilliputhur.

For Appellant : Mr.K.Sudalaiyandi

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant against the Judgment and Decree made in M.C.O.P.No.89 of 2018 dated 11.02.2019 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Virudhunagar Camp at Srivilliputhur.

2.The case of the respondent/claimant is that on 31.03.2017 at about 11.45 a.m, when the respondent was riding a two wheeler bearing Registration No.TN 67 AT 2398 along with a pillion rider namely Guruvaiah towards North direction in front of PSK park near to Rajapalayam Santhi Theatre, the Transport Corporation Bus bearing Registration No.TN 67 N 0412, which was driven by the driver of the Transport Corporation came from the same direction and dashed behind the respondent's two wheeler, due to that, the respondent/claimant sustained multiple grievous injury all over his body, for which, he filed a claim petition before the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Virudhunagar, claiming compensation. The appellant/Transport Corporation with which the offending vehicle is insured, resisted the claim. Considering the oral and documentary evidence adduced on either



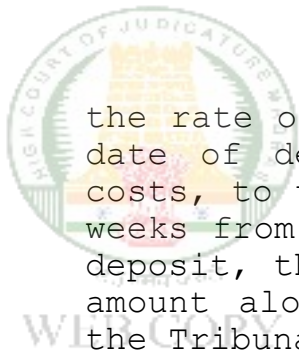
side, the Tribunal fixed the liability on the appellant to pay compensation of Rs.6,63,400/- to the respondent/claimant with 7.5% interest per annum. Aggrieved by the said award, the Transport Corporation has filed this appeal questioning the quantum.

3.Learned counsel for the appellant would submit that even though the respondent/claimant has not produced income proof, the Tribunal has taken notional income of the respondent/claimant as Rs.6,500/- and it is on the higher side. He further submitted that the disability certificate shows that the respondent has suffered 60% of partial and permanent disability, whereas the Tribunal has concluded that the respondent has suffered with 40% functional disability, which is unsustainable. It is further contended that the Tribunal has awarded exorbitant compensation under other heads and hence, he prays for reduction on the quantum of compensation.

4.Heard the learned counsel for the appellant and perused the materials available on record.

5.Perusal of record shows that in the accident, the person who has got crush injury is not disputed. Due to the crush injury, the respondent/claimant is not able to do his work. Though the learned counsel for the appellant has contended that fixation of monthly income of the respondent/claimant is on the higher side and the application of multiplier method is unwarranted, in my considered opinion, it is a case of crush injury on the right leg and the claimant is a Labourer by avocation. Due to the crush injury on the right leg of the respondent/claimant, he cannot do his avocation as labour and he has to be idle for the rest of his life time. Further, the Hon'ble Supreme Court in Syed Sadiq vs. United India Insurance Co.Ltd., reported in 2014 (1) TN MAC 459(SC), has fixed the monthly income at Rs.6,500/- for a vegetable vendor where there was no proof of income. Therefore, the fixation of monthly income at Rs.6,500/- and the application of multiplier method cannot be said to be erroneous. Consequently, the award of Rs.5,30,400/- under the head of permanent disability and loss of earning capacity cannot be found fault with. Apart from the above, the Tribunal has awarded Rs.5,000/- toward transportation charges; Rs.10,000/- towards nutrition; Rs.10,000/- towards attendant charges; Rs.3000/- towards loss of cloth and articles; Rs.50,000/- towards loss of pain and sufferings; Rs.25,000/- towards medical expenses and Rs.30,000/- towards future medical expenses. Altogether, the Tribunal has awarded Rs.6,63,400/- with 7.5% interest per annum as compensation, where I do not find any infirmity in the order passed by the learned Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Virudhunagar District Camp at Srivilliputhur in M.C.O.P.No.89 of 2018 and it does not warrant interference from this Court.

6.Accordingly, the appellant/Transport Corporation is directed to pay the entire award amount of Rs.6,63,400/- with interest at



the rate of 7.5% per annum from the date of claim petition till the date of deposit, less the amount already deposited, if any, and costs, to the credit of the claim petition, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent/claimant is permitted to withdraw the entire amount along with interest by filing a permission petition before the Tribunal.

7.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

msa

To

Motor Accident Claims Tribunal,
(Chief Judicial Magistrate Court),
Virudhunagar District Camp at Srivilliputhur.

+1 CC to M/s.K. SUDALAI YANDI, Advocate (SR-83621[F] dated 27/08/2019)

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JMN(03.10.2019) 3P : 3C