IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED.28.09.2020
CORAM
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
C.M.A.No.1923 of 2010 &
M.P.No.1 of 2010

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Madurai, Division-IV,
Bye-pass road,
Dindugul-624004. ... Appellant/Respondent

vs.

Suresh ...Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 15.06.2007 and made in MCOP.No.219 of 2005 on the file of the Motor Vehicles Accidents Claims Tribunal, FTC No.4 Coimbatore at Tirupur.

For Appellant : Mr.C.S.K.Sathish
For Respondent : Not ready in notice

JUDGMENT

[This Appeal has been taken up for hearing through Video Conferencing]

This Appeal has been filed by the Appellant Transport Corporation challenging the impugned award dated 15.06.2007 passed by the Motor Accident Claims Tribunal (FTC - IV, Coimbatore at Tirupur) in MCOP.No.219 of 2005.

2. Heard Mr.C.S.K.Sathish, learned counsel for the Appellant. Since this Court is going to confirm the award, the notice to the respondent is dispensed with.

3. The respondent sustained injuries on 09.02.2005 as a result of an accident caused by a bus owned by the Appellant Transport Corporation. He preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.219 of 2005 seeking compensation for the injuries sustained by him as a result of the accident.

4. The Motor Accident Claims Tribunal under the impugned award directed the Appellant Transport Corporation to pay the respondent/claimant a compensation of Rs.2,01,045/- together

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with interest and costs as detailed hereunder:

Heads	Award Amount (Rs.)
Permanent disability	1,93,800/-
Medical Expenses	1,245/-
Extra nourishment and pain and suffering	6,000/-
Total	2,01,045/-

5. Before the Tribunal, the respondent/claimant has filed six documents which were marked as Ex.A1 to Ex.A6 and three witnesses were examined on his side namely, the respondent/claimant himself as PW1, Asokan, a co-worker of the injured as PW2 and Dr.Senthilkumar, the Doctor who examined him as PW3. On the side of the Appellant Transport Corporation, no documents were filed but one witness was examined as RW1.

6. In the claim petition, the respondent/claimant had claimed that he was a tailor aged 24 years and earning Rs.4,000/- per month at the time of the accident. He sought for a compensation of Rs.5,00,000/- before the Tribunal for the injuries sustained by him as a result of the accident. However, the Tribunal fixed the notional monthly income of the respondent/claimant at Rs.2,500/-. This Court is in agreement with the finding of the Tribunal regarding the monthly income of the injured at Rs.2,500/-.

7. The respondent/claimant sustained the following injuries namely (a) Spinal Cord Fracture, (b) Right leg Fracture, (c) Right Foot Fracture and (d) injuries all over his body as a result of the accident. The Doctor (PW2) has assessed the disability of the respondent/claimant at 44.36% as seen from the disability certificate which was marked as Ex.A6 before the Tribunal. However, the Tribunal has reduced the disability to 39%, after giving due consideration to the nature of injuries sustained by the respondent/claimant and the whole body disability suffered by him which in the considered view of this Court is a correct assessment.

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8. The Tribunal has also adopted the multiplier method for assessing the loss of earning capacity to the respondent/claimant. This Court after giving due consideration to the nature of the injuries sustained by the respondent is in agreement with the view taken by the Tribunal to adopt multiplier method.

9. The respondent was aged 24 years at the time of the

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accident. Therefore, the Tribunal has rightly adopted 17 multiplier for the purpose of assessing the loss of earning power. The compensation of Rs.1,93,800/- towards loss of earning capacity awarded by the Tribunal cannot be considered to be excessive as alleged by the Appellant Transport Corporation.

10. The Tribunal has awarded a compensation of Rs.1,245/- towards medical expenses and Rs.6,000/- towards extra nourishment and pain and suffering cannot also be considered to be excessive as alleged by the Appellant Transport Corporation.

Conclusion:

11. For the foregoing reasons, there is no merit in this appeal. Accordingly, this Appeal is dismissed. However, the rate of interest fixed by the Tribunal at 7.5% per annum is confirmed. The Appellant Transport Corporation is directed to deposit the compensation awarded by the Tribunal along with interest from the date of claim till the date of deposit and costs after deducting the amount already deposited if any to the credit of MCOP.No.219 of 2005 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount along with accrued interest lying to the credit of MCOP.No.219 of 2005 to the bank account of the respondent/claimant through RTGS within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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To

1.The Motor Vehicles Accidents Claims Tribunal,
FTC No.4, Coimbatore, Tirupur.

Copy To

The Section Officer,
VR Section, High Court, Chennai.

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