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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:14.10.2020

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.719 of 2016
and
C.M.P.No.5854 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram) Limited,
No.3/137, Salamedu,
Vazhuthareddy,
Villupuram 605 602.

.. Appellant/Respondent

/versus/

Nagarajan

.. Respondent /Petitioner

Prayer: Civil Miscellaneous Appeal has been filed under Section 173 of M.V.Act, 1988, against the judgment and decree dated 06.06.2014 made in M.C.O.P.No.51 of 2013 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge-I, Villupuram.

For Appellant
For Respondent

:Mr.C.S.K.Sathish
:No appearance

J U D G M E N T

(The case has been heard through video conference)

Heard the learned counsel appearing for the appellant and no representation for the respondent.

2.The appeal is filed by the Transport Corporation aggrieved by the quantum of compensation fixed by the Tribunal for the injury sustained by the claimant.

3.The learned counsel appearing for the appellant would submit that the injured, while travelling in his two wheeler, was hit by the Transport Corporation bus, in which the injured sustained permanent disability. Due to fracture of right elbow and commuted body and spine scapula, the Tribunal has fixed the permanent disability at 60% and applied multiplier '18', which is excessive.



4.The short point canvassed by the learned counsel appearing for the appellant is that the multiplier '18' is not applicable for the person who is 30 years old. As per the Sarala Verma case, the Tribunal should have applied only multiplier '17'. However, the learned counsel would stated that the percentage of functional disability fixed by the Tribunal is very excessive. Medical bills were not properly scrutinized by the Tribunal and awarded Rs.3,06,245/-. Without proper scrutiny of the evidence let in by the claimant, the award has been passed by the Tribunal.

5.Based on the evidence, this Court finds that in the said accident, the rear wheel of the transport corporation bus ran over the right hand of the claimant. Due to the accident, the fracture has misunited and his right hand appears very ugly with curve. Therefore, the Tribunal has fixed the functional disability at 60% since the claimant was working as a Medical Representative, his earning capacity has substantially impaired. Therefore, this Court is of the view that except erroneous application of multiplier, the award of the other heads appears to be reasonable. Accordingly, the award of the Tribunal is modified as under:-

Sl . No .	Particulars	Award of the Tribunal (Rs.)	Award of this Court (Rs.)	Confirmed/ Reduced/ Enhanced
1.	Loss of Disability	3,88,800-00 (3000x12x18x60/100)	3,67,200-00 (3000x12x17x60/100)	Reduced
2.	Loss of pain and sufferings	15,000-00	15,000-00	Confirmed
3.	Damages to cloth	1,000-00	1,000-00	Confirmed
4.	Transport charges	5,000-00	5,000-00	Confirmed
5.	Extra Nourishment	5,000-00	5,000-00	Confirmed
6.	Medical bills	3,06,245-00	3,06,245-00	Confirmed
Total		7,21,045-00	6,99,445-00	Reduced

6.The learned counsel appearing for the appellant would submit that the entire award amount with interest has already been deposited in MCOP account and the claimant was permitted to withdraw 50% of it.

7.In such circumstances, the appellant/transport corporation is permitted to withdraw the excess amount lying in



the account less the amount payable to the claimant as modified by the order passed by this Court. The claimant is permitted to withdraw the balance modified award passed by this Court less the amount already withdrawn by him.

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8. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-V)

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Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Special Subordinate Judge-I,
Villupuram.
2. The Section Officer,
V.R. Section, High Court,
Madras.

C.M.A.No.719 of 2016
and
C.M.P.No.5854 of 2016

JP(CO)
GN(19/08/2021)