

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2135 of 2014
and M.P.No.1 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Chennimalai Road, Erode - 9. ...Appellant/2nd Respondent

vs.

1.K.Sivakumar ...Respondent/Petitioner

2.L.Ganesan ...Respondent/Respondent
(R2 is Driver, unnecessary party, hence given up)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in MACT.O.P.No.19/2011 dated 05.10.2012 on the file of the Motor Accidents Claims Tribunal, Sub-Judge, Perundurai.

For Appellant : Mr.A.Sundaravadhanam

For Respondents : Mr.C.Ramaraj for R1
R2 - Given up

JUDGMENT

(This appeal was heard through the Video Conferencing)

This appeal has been filed by the Appellant Transport Corporation challenging the Award dated 05.10.2012 passed by the Motor Accident Claims Tribunal, Sub-Judge, Perundurai, in M.C.O.P.No.19 of 2011.

2.Heard Mr.A.Sundaravadhanam, learned counsel for the Appellant and Mr.C.Ramaraj, learned counsel for the first respondent.

3.The Appellant Transport Corporation has challenged the Award primarily on the ground that the quantum of compensation awarded by the Tribunal to the first respondent is excessive.

4.The Tribunal under the impugned Award has directed the Appellant Transport Corporation to pay the first respondent a compensation of Rs.3,20,600/- together with interest and cost.

5.The details of the compensation awarded by the Tribunal under the impugned Award are as follows:

22% permanent disability	-	Rs.2,13,840/-
Medical expenses		
towards removing metal plate	-	Rs. 10,000/-
Medical Expenses	-	Rs. 78,769/-
Transportation to hospital	-	Rs. 3,000/-
Extra nourishment	-	Rs. 5,000/-
Pain and suffering	-	Rs. 10,000/-

Total		Rs.3,20,609/-

Rounded off to		Rs.3,20,600/-

6.Before the Tribunal, the first respondent/claimant has filed 10 documents which were marked as Exs.A1 to A10 and three witnesses were examined on his side namely the first respondent/claimant himself as PW1, an eye witness to the accident as PW2 and the Doctor who examined him as PW3. On the side of the Appellant Transport Corporation, one witness was examined but no document was filed before the Tribunal.

7.The first respondent/claimant was working as a driver under an M.L.A. In his claim petition, he has claimed that he was earning Rs.8,000/- per month. He has also filed his salary slip before the Tribunal which was marked as Ex.A8 which discloses that the first respondent/claimant was earning Rs.8,000/- per month at the time of the accident. However, the first respondent/claimant's employer has not been examined as a witness. The Tribunal, therefore has assessed the monthly income of the first respondent/claimant at Rs.4,500/-. The accident happened on 20.12.2009. Considering the year of the accident, the assessment of the notional monthly income of the first respondent/claimant by the Tribunal at Rs.4,500/- cannot be considered to be unreasonable.

8.The Doctor who assessed the disability of the first respondent/claimant has been examined as a witness (PW3), who has issued a disability certificate Ex.A9 which reveals that the first respondent has suffered 24% disability. However, the Tribunal has assessed the same at 22%. The nature of injuries sustained by the first respondent/claimant has also not been disputed by the Appellant Transport Corporation as seen from the evidence available on record. He has sustained grievous

injuries with fractures on his left leg and injuries on his head and his left shoulder as a result of the accident.

9.This Court after giving due consideration to the nature of injuries sustained by the first respondent/claimant is of the opinion that the assessment of the first respondent/claimant's disability as 22% by the Tribunal is a correct assessment. The Tribunal has awarded a compensation of Rs.2,13,840/- to the first respondent/claimant towards loss of earning power. The Tribunal has adopted multiplier method for assessing the loss of earning power of the first respondent/claimant based on 22% disability. As a driver, the fracture sustained by the first respondent/claimant and the other injuries suffered by him would have certainly disabled him from going for his regular work for a long period of time. In fact, he was hospitalized between 21.12.2009 and 29.12.2009 as seen from the discharge summary issued by the hospital which was marked as Ex.A5 before the Tribunal. The Tribunal has rightly taken note of all these factors and has rightly adopted the multiplier method. Further, the monthly income of the first respondent/claimant fixed by the Tribunal is only Rs.4,500/- for an accident that happened in the year 2009 which may be low. This Court after giving due consideration to the aforementioned factors is of the view that the compensation awarded by the Tribunal under various heads totally amounting Rs.3,20,600/- is a just compensation.

10.For the foregoing reasons, this Court is of the considered view that there is no merit in this appeal.

11.Accordingly, the appeal shall stand dismissed. The Appellant Transport Corporation is directed to deposit the amount awarded by the Tribunal, after deducting the amount already deposited if any, together with interest at the rate of 7.5% from the date of the claim till the date of realization to the credit of MACT.O.P.No.19 of 2011, on the file of the Motor Accidents Claims Tribunal, Sub-Judge, Perundurai, 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 with accrued interest lying to the credit of MACT.O.P.No.19 of 2011 to the bank account of first respondent/claimant, through RTGS, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

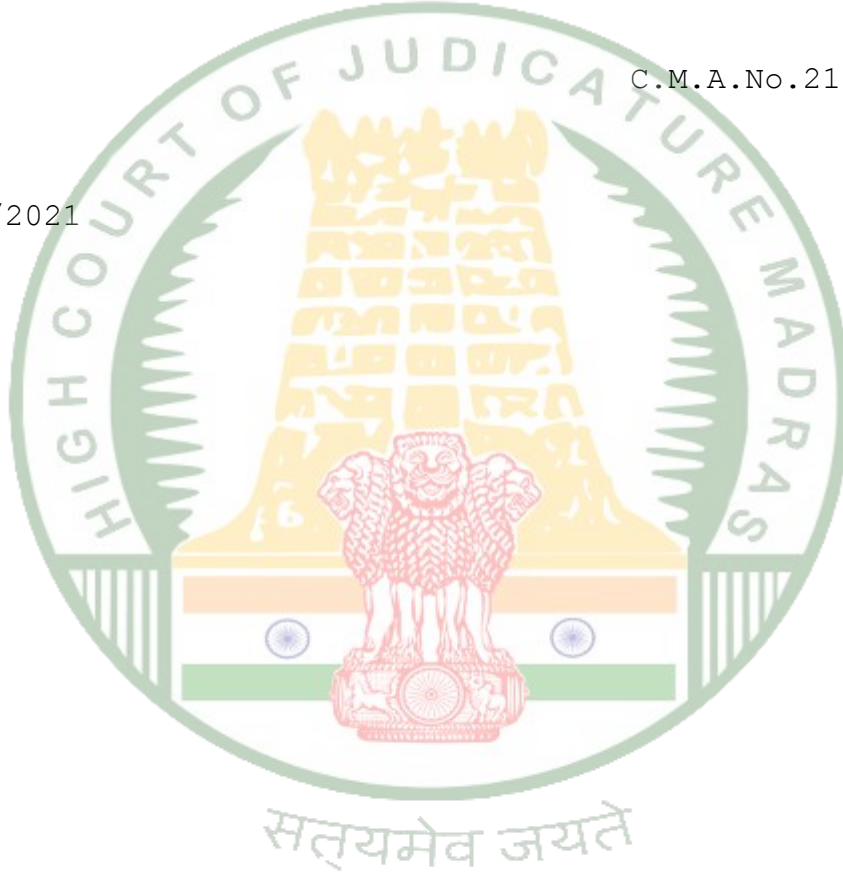
1.The Motor Accidents Claims Tribunal,
Subordinate Judge, Perundurai.

2.The Section Officer,
Vernacular Section,
Madras High Court.

+lcc to Mr.Guruprasad, Advocate Sr.28450

C.M.A.No.2135 of 2014

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