



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1846 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Andhra Pradesh State Road,
Transport Corporation, Musheerabad,
Hyderabad, Andhra Pradesh.

.. Appellant/Respondent

..Vs..

Subramani (a) Subramani Reddy

.. Respondent/Petitioner

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 31.10.2013 passed by the Chief Judicial Magistrate of Motor Accidents Claims Tribunal at Krishnagiri in M.C.O.P.No.1080 of 2013, praying to set aside the above said award and decree.

For Appellant : Ms.G.V.Shoba

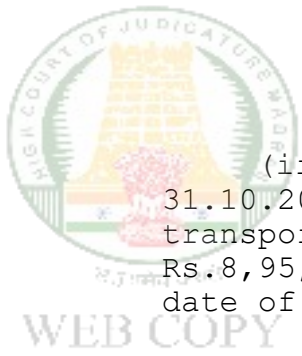
For Respondent : No Appearance

J U D G M E N T

The appeal has been filed by the Transport Corporation challenging the award dated 31.10.2013 passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Krishnagiri.

2. The brief facts leading to the filing of the appeal are as follows:

(i) The respondent sustained injuries as a result of an accident caused by a bus bearing Registration No.AP-11-Z-4465 owned by the appellant transport corporation. The respondent preferred a claim before the Motor Accidents Claims Tribunal in MCOP.No.1080 of 2013 seeking a compensation of Rs.15,00,000/-.



(ii) The Motor accident Claims Tribunal, by its award dated 31.10.2013 in MCOP.No.1080 of 2013 directed the appellant transport corporation to pay the respondent a sum of Rs.8,95,216/- together with interest at 7.5% per annum from the date of claim till the date of realisation.

(iii) Aggrieved by the award dated 31.10.2013 passed in M.C.O.P.No.1080 of 2013, the appeal has been filed by the Transport Corporation.

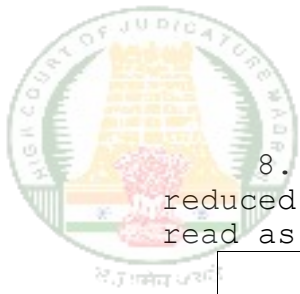
3. Heard, Ms.G.V.Shoba, learned counsel for the appellant and perused the records.

4. The factum of the accident; the manner of the accident and negligence on the part of the driver of the vehicle is not under challenge.

5. On the point of quantum, the learned counsel for the appellant/Transport Corporation would contend that for the injuries sustained, the Tribunal had erred in adopting multiplier method and also in the absence of any positive evidence, for the alleged avocation, Rs.6,000/- has been fixed.

6. The injured/P.W.1 has deposed that due to the impact in the accident his tibia fibula on the right leg was totally broken into pieces and the evidence of P.W.2 T.V.Gandhi-Doctor coupled with Exs.P2 and P3 is that the disability is at 65%. But, the tribunal assessed the disability at 50% and adopted multiplier method. On perusing Exs.P2 & P3 discharge summary, it is seen that after the surgery $\frac{3}{4}$ inch of the bone was removed from the right leg and metal and screws have been fixed and the petitioner could not walk without the assistance of the stick. This is due to the impact of the accident. The petitioner claims to have been running the welding shop and with the injuries, which has resulted in 1 $\frac{3}{4}$ inch reduction in the hip bone will definitely have an impact on the earning capacity and hence the tribunal has rightly adopted the multiplier method and consequently, the plea raised by the transport corporation is hereby rejected. However, I find that 50% disability fixed by the tribunal is on the higher side.

7. On perusal of the discharge summary Exs.P2 and P3, evidence of P.W.2 and also the fact that the disability certificate under Ex.P16, I find that 35% as to the whole body disability can be fixed. Accordingly, the pecuniary loss sustained by the claim petitioner is re-assessed at 6000X12X18X35% and amounts under all other heads appear to be reasonable.



8. Thus, the compensation awarded by the Tribunal is reduced from Rs.8,95,216/- to Rs.7,00,816/- the details of which read as follows:

Head	Compensation awarded by the Tribunal (Rs.)	Compensation reduced by this Court (Rs.)
Permanent disability	6,48,000/-	4,53,600/-
Pain and sufferings	25,000/-	25,000/-
Extra nourishment	5,000/-	5,000/-
Transportation charges	5,000/-	5,000/-
Attendant Charges	5,000/-	5,000/-
Loss of Income	72,000/-	72,000/-
Medical Bills	1,35,216/-	1,35,216/-
Total	8,95,216/-	7,00,816/-

9. Accordingly, the appeal is partly allowed. No costs. Consequently connected miscellaneous petition is closed. The appellant Transport Corporation is directed to deposit the modified compensation amount with interest and costs, less the amount already deposited, if any, within a period of 12 weeks from the date of receipt of a copy of this Judgement. On such deposit, the Tribunal shall transfer the same to the savings bank account of the respondent/claimant through RTGS within a period of one week thereafter.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

AT

To

1. The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate, Krishnagiri.
2. The Section Officer,
VR Section, High Court, Madras.

+1cc to Ms.G.V.Shoba, Advocate, S.R.No.21513

C.M.A.No.1846 of 2015 and
M.P.No.1 of 2015

RP (CO)
CS/08/11/2021