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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.Nos.1306 & 1307 of 2021

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Bharathipuram,
Dharmapuri - 636 705 ... Appellant/Respondent in both C.M.A.s

Vs.

Ramakka ... Respondent/Claimant in C.M.A.No.1306/2021

Lagumamma ... Respondent/Claimant in C.M.A.No.1307/2021

Common Prayer: These Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988, against the common judgment and decree dated 10.04.2014 made in M.C.O.P. Nos.225 & 219 of 2012, on the file of the Sub Court, (Motor Accidents Claims Tribunal), Hosur.

For Appellant : Mr.D.Venkatachalam
(in both CMAs)

C O M M O N J U D G M E N T

(The matter is heard through "Video Conferencing/Hybrid mode")

These Civil Miscellaneous Appeals have been filed by the appellant-Transport Corporation challenging the quantum of compensation granted by the Tribunal in the common award dated 10.04.2014 made in M.C.O.P. Nos.225 & 219 of 2012, on the file of the Sub Court, (Motor Accidents Claims Tribunal), Hosur.

2.The appellant is the respondent in M.C.O.P.Nos.225 & 219 of 2012, on the file of the Sub Court, (Motor Accidents Claims Tribunal), Hosur. The respondent/claimant in both the appeals filed the said claim petitions, claiming a sum of Rs.5,00,000/- each as compensation for the injuries sustained by them in the accident that took place on 02.12.2011.



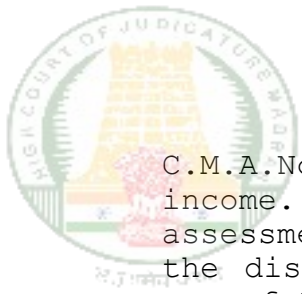
3. According to the respondent in both the appeals, on the date of accident, both the respondent traveled in a Tempo bearing Registration No.KA-05-C-8732 from Vannalavadi to Siddanapalli Village to harvest Coriander leaves and spinach and to bring the same to Hosur market. When the driver of the said Tempo drove the vehicle slowly and carefully following the road rules, behind the Lorry proceeding ahead of the Tempo, near Perandapalli bridge, the driver of the Bus bearing Registration No.TN-29-N-1782 owned by the appellant-Transport Corporation drove the same towards Hosur at high speed, in a rash and negligent manner and dashed behind the said Tempo and caused the accident. Due to the said impact, the Tempo pushed forward and hit behind the Lorry. In the accident, the respondent in both the appeals sustained grievous injuries. The accident occurred only due to rash and negligent driving by driver of the Bus. Hence, the respondent in both the appeals filed the said claim petitions claiming compensation against the appellant as owner of the Bus involved in the accident.

4. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by driver of the Bus owned by the appellant-Transport Corporation and directed the appellant to pay a sum of Rs.2,14,000/- and Rs.2,74,600/- as compensation to the respondent in both the appeals respectively.

5. Questioning the quantum of compensation granted by the Tribunal in the common award dated 10.04.2014 made in M.C.O.P. Nos.225 & 219 of 2012, the appellant - Transport Corporation has come out with the present appeals.

6(i). The learned counsel appearing for the appellant/Transport Corporation contended that the respondent in C.M.A.No.1306 of 2021 failed to prove her age, avocation and income. In the absence of proof to substantiate the assessment of disability, the Tribunal ought not to have fixed the disability suffered by the respondent as 25% and awarded a sum of Rs.3,000/- per percentage for disability, which is on the higher side. The respondent did not file any document to prove her avocation and income. In such circumstances, the Tribunal erroneously fixed a sum of Rs.6,000/- per month as notional income, which is excessive. The amounts awarded by the Tribunal towards pain and suffering, attendant charges, social enjoyment and extra nourishment are excessive. The total compensation awarded by the Tribunal is excessive and prayed for reducing the compensation granted in M.C.O.P.No.225 of 2012.

6(i). The learned counsel appearing for the appellant/Transport Corporation contended that the respondent in



C.M.A.No.1307 of 2021 failed to prove her age, avocation and income. In the absence of proper proof to substantiate the assessment of disability, the Tribunal ought not to have fixed the disability suffered by the respondent as 35% and awarded a sum of Rs.3,000/- per percentage for disability, which is on the higher side. The respondent did not file any document to prove her avocation and income. In such circumstances, the Tribunal erroneously fixed a sum of Rs.3,600/- per month as notional income, which is excessive. The amounts awarded by the Tribunal towards pain and suffering, attendant charges, social enjoyment and extra nourishment are excessive. The total compensation awarded by the Tribunal is excessive and prayed for reducing the compensation granted in M.C.O.P.No.225 of 2012.

7.Heard the learned counsel appearing for the appellant-Transport Corporation and perused the materials available on record.

8(i).It is the case of the respondent in C.M.A.No.1306 of 2021 that in the accident, she sustained grievous injuries and has taken treatment at Srinivasa Speciality Hospital, Hosur. She filed the discharge summary as Ex.P2 and medical bills as Ex.P3 to prove the same. P.W.7 Doctor examined the respondent and certified that the respondent suffered 35% disability. P.W.7 also deposed that due to the injuries sustained in the accident, the respondent suffered occipital bone fracture and hence, unable to do any hard work like agricultural work and she is often getting headache, giddiness. The Tribunal considering the nature of injuries suffered by the respondent, as evident from the disability certificate marked as Ex.P11 and evidence of P.W.7 Doctor, accepted the percentage of disability assessed by P.W.7-Doctor and awarded a sum of Rs.1,05,000/- towards disability at the rate of Rs.3,000/- per percentage for 35% disability. The accident is of the year 2011. Considering the year of accident, the amount granted by the Tribunal towards disability is proper. It is the contention of the respondent that at the time of accident, she was working as a Coolie and was earning a sum of Rs.9,000/- per month. She did not file any material evidence to prove the same. In the absence of any document to prove the avocation and income, the Tribunal fixed notional income of the respondent as Rs.3,600/- per month, at the rate of Rs.120/- per day and awarded a sum of Rs.21,600/- towards loss of earning for 6 months and the same is not excessive. Considering the nature of injuries suffered, disability sustained and treatment taken, this Court is of the considered view that the amounts awarded by the Tribunal under other heads are just and reasonable and there is no error in the award of the Tribunal warranting interference by this Court.



8(ii).It is the case of the respondent in C.M.A.No.1307 of 2021 that in the accident, she sustained grievous injuries and fracture. She filed the wound certificate as Ex.P7 to prove the same. P.W.7 Doctor examined the respondent and certified that the respondent suffered 25% disability. P.W.7 also deposed that due to the injuries sustained in the accident, the respondent is unable to carry weights on her right hand and her right hand movements are restricted and she is unable to do hard work as earlier. The Tribunal considering the nature of injuries suffered by the respondent, as evident from the disability certificate marked as Ex.P23 and evidence of P.W.7 Doctor, accepted the percentage of disability assessed by P.W.7-Doctor and awarded a sum of Rs.75,000/- towards disability at the rate of Rs.3,000/- per percentage for 25% disability. The accident is of the year 2011. Considering the year of accident, the amount granted by the Tribunal towards disability is proper. It is the contention of the respondent that at the time of accident, she was working as a Coolie and was earning a sum of Rs.9,000/- per month. She did not file any material evidence to prove the same. In the absence of any document to prove the avocation and income, the Tribunal fixed a sum of Rs.6,000/- and awarded a sum of Rs.36,600/- towards loss of earning for a period of 6 months and the same is not excessive. Considering the nature of injuries suffered, disability sustained and treatment taken, this Court is of the considered view that the amounts awarded by the Tribunal under other heads are just and reasonable and there is no error in the award of the Tribunal warranting interference by this Court.

9.In the result, both the Civil Miscellaneous Appeals are dismissed and the amount awarded by the Tribunal at Rs.2,14,000/- and Rs.2,74,600/- respectively together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit is confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount already deposited, within a period of twelve weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. Nos.225 and 219 of 2012. On such deposit, the respondent in both the appeals are permitted to withdraw their respective award amount, along with interest and costs, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



gsa
To

1.The Subordinate Judge,
(Motor Accidents Claims Tribunal),
Hosur.

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

+1cc to Mr.D.Venkatachalam, Advocete Sr.21104

C.M.A.Nos.1306 & 1307 of 2021

rsv[co]
srg 27/10/2021