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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3620 of 2019

Ramanichandran

... Appellant/ Petitioner

Vs.

1.Balasubramanian

2.The Managing Director,

State Express, Transport Corporation Ltd,

Having office No.2, Pallava Salai,

Chennai.

... Respondents/ Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 18.06.2019 made in M.C.O.P.No.110 of 2015 on the file of the Motor Accidents Claims Tribunal, (District Judge), Karaikal.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents: No appearance for R1

Mr.K.Kathiresan for R2

JUDGMENT

The claimant is the appellant in this appeal. In this appeal, the appellant has questioned the quantum of compensation awarded by the Motor Accidents Claims Tribunal, District Judge, Karaikal in M.C.O.P.No.110 of 2015 by the impugned judgment and decree dated 18.06.2019.

2.By the impugned judgment and decree, the Tribunal has awarded a sum of Rs.3,05,000/- as compensation under the following heads:-

For Pain and suffering	Rs. 50,000
For Extra Nourishment	Rs. 5,000
Compensation for pecuniary damages for partial disability	Rs.1,08,000
For medical expenses	Rs. 84,000
For Transportation	Rs. 10,000
For Attender charges (2 months)	Rs. 8,000
For loss of income for during course of treatment four months	Rs. 40,000



Total

Rs.3,05,000

3.The appeal has been filed by the claimant stating that the Tribunal erred in awarding a meagre compensation towards pecuniary damages for partial disability by adopting Rs.3,000 per percentage. The case of the appellant is that the disability certificate of the Medical Board vide Ex.P.11 clearly brings out the functional disability at 27%. Therefore, the Tribunal ought to have award apply multiplier as per the decision of the Hon'ble Supreme Court in Raj Kumar Vs Ajay Kumar and another, (2011) 1 SCC 343.

4.Defending the impugned judgment and decree, the learned counsel for the 2nd respondent/State Transport Corporation submits that the Tribunal has awarded a just compensation and therefore he prays for a dismissal of the appeal.

5.Heard the learned counsel for the appellant and the respondent and also perused the impugned judgment and decree and the records including exhibits which form the basis of the impugned judgment and decree.

6.The Medical Report of the Medical Board has assessed 27% disability. The appellant is said to be a Mill worker engaged in Carding Operation. The aforesaid operation involves working in standing position. Therefore, the permanent disability assessed by the Medical Board cannot be questioned. The Hon'ble Supreme Court in Raj Kumar Vs Ajay Kumar and another, (2011) 1 SCC 343 has held that wherever there is a functional disability on account of the permanent disability or partial permanent disability multiplier has to be applied in Sanjay Verma Vs. Haryana Roadway, (2014) 3 SCC 210 and V.Mekala Vs. Malathi and Another, (2014) 11 SCC 178 and it has been held that there has to be also further addition towards Future Prospectus wherever there is permanent disability or partial permanent disability multiplier. The Tribunal should have also determined the functional disability considering the avocation of the appellant. This involves some amount of guess work. The Tribunal had the best opportunity to make such guess work as it had the benefit of seeing the appellant in person. This Court therefore assesses the functional disability of the appellant at 15% to arrive at a just compensation payable to the appellant.

7.Under these circumstances, the compensation awarded by the Tribunal is re-computed as follows:-



Monthly Income of the appellant Rs.13,416 + 40% Future Prospectus (13,416+ 40%) Rs. 5,366 ----- Rs.18,782 Annual Contribution (18782X12) .2,25,384 ----- MultiplierX15 Rs.33,80,760 Functional Disability 15% of (Rs.33,80,760 x 15%)Rs. 5,07,114	Rs. 5,07,114.00
Pain and sufferings	Rs. 25,000.00
Extra Nourishment	Rs. 5,000.00
Medical Expenses	Rs. 84,000.00
Transportation	Rs. 10,000.00
Attender charges	Rs. 8,000.00
Total	Rs. 6,39,114.00

8.The 2nd respondent/Insurance Company is therefore directed to deposit the enhanced amount of compensation of Rs.6,39,114/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of eight weeks from the date of receipt of a copy of this Judgment.

9.On such deposit being made by the 2nd respondent/Insurance Company, the appellant/claimant is permitted to withdraw his share together with interest accrued thereon, less any amount already withdrawn in the same proportion as was ordered by the Tribunal.

10.This Civil Miscellaneous Appeal stands Partly Allowed with the above observations. No costs.

Sd/-
Deputy Registrar(Spl cell CJ Conf)

//True Copy//

Sub Assistant Registrar



To:

1.The Motor Accidents Claims Tribunal,
District Judge, Karaikal.

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

+1 cc to Mr.K.Varadha Kamaraj, Advocate Sr.NO. 23974

C.M.A.No.3620 of 2019

RSI (CO)

A.SK(25.10.2021)