

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	18.12.2020
DELIVERED ON	06.01.2021

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A (MD) No.877 of 2015

and

M.P. (MD) No.1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation,
Karaikudi.

.. Appellant/Respondent
in M.C.O.P

vs.

V.Arumugam

.. Respondent/Petitioner
in M.C.O.P

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the Judgment and Decree passed in M.C.O.P.No.1091 of 2010, dated 21.09.2011 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Madurai.

For Appellant : Mr.D.Sivaraman

For Respondent : No Appearance

J U D G M E N T

The Civil Miscellaneous Appeal has been preferred under Section 173 of the Motor Vehicles Act 1988, challenging the award passed in M.C.O.P.No.1091 of 2010, dated 21.09.2011 on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate Court, Madurai.

2.The Tribunal after holding that the appellant/Transport Corporation was liable, has passed the impugned award directing them to pay a compensation of Rs.2,92,000/- with interest at 7.5% p.a for the disability suffered by the respondent/injured.

3.Though the appellant has taken a plea in the memorandum of appeal challenging the liability milted on it, the same is not
served in to service. The appellant has only challenged the



quantum of the compensation arrived at by the Tribunal and more particularly, the application of multiplier method adopted by the Tribunal.

4. During enquiry before the Trial Court, the respondent/claimant has examined himself as P.W.1 and examined one Chandran and Doctor-Ravichandran as P.W.2 and P.W.3 respectively and exhibited nine documents as Ex.P.1 to Ex.P.9. The appellant has adduced neither oral nor documentary evidence.

5. The points for consideration are;

(i) Whether the Trial Court erred in adopting and applying the multiplier method, as there was absolutely no evidence to show that the injured had suffered permanent or partial permanent disability?

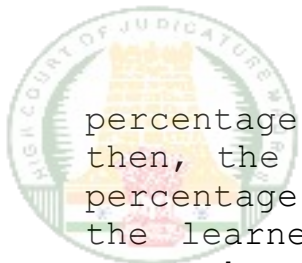
(ii) Whether the quantum of compensation arrived at by the Tribunal is proper and is in accordance with law? and

(iii) whether the award dated 21.09.2011 is liable to be interfered with?

Point Nos.1 to 3:

6. The case of the claimant is that he suffered compound fracture in the right leg femur bone and fracture in right forearm and multiple injuries all over his body and he was immediately taken to the Government Rajaji Hospital, Madurai and was taking treatment as inpatient from 16.05.2020 to 17.06.2020; that the claimant had taken further treatment at Sri Kamatchi Hospital, K.Pudur, Madurai, that he underwent major surgery, which includes insertion of plates and that despite best treatment, he is unable to do any work. The claimant's further case is that he was doing stone breaking work before the accident and because of the disabilities sustained in the leg, he is not in a position to attend the said work and that therefore, he has completely lost his job and income.

7. No doubt, the claimant in order to prove his disability, has examined P.W.3-Doctor, who had treated him at Government Rajaji Hospital and subsequently, at Kamatchi Sugam Hospital. The claimant has also produced the discharge summary issued at Kamatchi Sugam Hospital and also the medical file summoned from Government Rajaji Hospital, medical prescriptions and bills marked as Ex.P.2 to Ex.P.7 respectively. P.W.3-Doctor has fixed the disability at 41%. No doubt, as rightly pointed out by the learned counsel for the appellant, there was no amputation of any part, but at same time, considering the nature of the job that he was doing earlier and on considering the evidence of medical officer with respect to the disability in his leg, the Tribunal has adopted the multiplier method. The learned counsel for the appellant would submit that the Tribunal ought to have adopted



percentage method. Even if the percentage method is adopted, then, the injured has to be granted compensation at Rs.3000/- per percentage, which comes to Rs.1,23,000/-. As fairly conceded by the learned counsel for the appellant, the Trial Court has not granted any compensation towards pain and sufferings, nor any amount for attendant charges nor for loss of income. If appropriate amount is given towards the conventional heads, then, there will not any substantial change in the quantum already arrived at by the Tribunal. Considering the above, I do not find any infirmity in the award passed by the Tribunal and consequently, the above appeal which is devoid of merits is liable to be dismissed. Considering the other facts and circumstances, this Court further decides that the parties are to be directed to bear their own costs and the above points are considered accordingly.

8.In the result, the Civil Miscellaneous Appeal is dismissed and the award passed in M.C.O.P.No.1091 of 2010, dated 21.09.2011 by the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Madurai, is confirmed. Parties are directed to bear their own cost. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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Sub Assistant Registrar(CS)

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To

1.The Chief Judicial Magistrate
(Motor Accident Claims Tribunal), Madurai.

2.The Record Keeper-2 copies
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.D.SIVARAMAN, Advocate (SR-495[F] dated 07/01/2021)

Judgment made in
C.M.A(MD) No.877 of 2015
06.01.2021

KM (05.02.2021) 3P 5C

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