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CMA No.1852 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.02.2023

PRONOUNCED ON : 03.03.2023

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA No.1852 of 2022
and CMP Nos.13406 & 20520 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation,
Bharathipuram, Salem Main Road,
Dharmapuri

... Appellant

Vs.

Rajendran

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 30.09.2019 made in MCOP No.239 of 2015 on the file of the Motor Accident Claims Tribunal, Additional Special Judge, Krishnagiri.

For Appellant : Mr.D.Venkatachalam

For Respondent : Mr.S.Murugan



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JUDGMENT

Transport Corporation is the appellant herein, challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal [Additional Special Judge], Krishnagiri, vide judgment and decree dated 30.09.2019 made in MCOP No.239 of 2015.

2. For the sake of convenience, the parties are hereinafter referred to as per their ranking before the claims tribunal.

3. Factum of the accident, manner of the accident, rash and negligence on the part of the driver of the offending vehicle are not disputed and hence, the findings rendered by the Claims Tribunal, are confirmed.

4. On the point of quantum of compensation, heard the learned counsel on either side.

5. Perusal of the records reveals that the claim petitioner has suffered a crush injury and consequently, his one hand was amputated, for



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which, the medical board has assessed the disability at 90%. It is alleged by the claim petitioner that he was working as an Office Assistant in the Judicial Department of Tamilnadu. However, no document has been filed before the Court to substantiate the same. At the time of the accident, the injured was 49 years and in the absence of any postive evidence, the claims tribunal has come to the conclusion that a notional income of Rs.4,500/- will meet the ends of justice.

6. Taking into consideration that due to the crush injury, his entire right hand was amputated, the tribunal has accepted the medical certificate of 90% disability and also accepted the plea of the claimant that by the loss of one hand, his earning capacity has been lost. Accordingly, by applying the ratio laid down by our Hon'ble Supreme Court in ***Rajkumar Vs. Ajaykumar & Anr.***, reported in **2010 (2) TNMAC 581 SC**, the claims tribunal has adopted multiplier method and also following the decision of our Hon'ble Supreme Court in ***Erudhya Priya Vs. State Transport Corporation***, reported in **2020 SCC OnLine SC 601**, added 50% of the income towards future prospects i.e. Rs.2,250/- Thereafter, by adopting 13



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multiplier as per the decision of our Hon'ble Supreme Court in ***Sarla Verma and Ors Vs. Delhi Transport Corporation***, reported in **2009 (2) TNMAC 1 (SC)**, has computed the award under the head 'permanent disability' as under.

$$[\text{Rs.4,500/-} + \text{Rs.2,250/-}] \times 12 \times 13 \times 90/100 = \text{Rs.9,47,700/-}$$

7. Further, the claims tribunal has awarded Rs.10,000/- each towards transportation, extra nourishment & attender charges and social amenities. In addition, a sum of Rs.52,000/- has been awarded towards pain and sufferings. In all, the claims tribunal has awarded, Rs.10,29,700/- to the claim petitioner, and the said award appears to be just and reasonable and cannot be said to be on the higher side, as the accident of the year 2012 and the right hand of the claim petitioner has been amputated.

8. Though the learned counsel for the respondent/claim petitioner could contend that claim petitioner was working as an Office Assistant in Judicial Department, no document has been produced as stated supra. A similar contention has been raised before the tribunal and the tribunal on



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observing the fact that in the absence of any evidence, the plea and the averments raised by the claim petitioner, cannot be entertained. So also I find that the said finding of the tribunal is well considered and well merited, and does not warrant any interference by this Court.

9. The learned counsel for the appellant/transport corporation would contend that after amputation of right hand, the claim petitioner was given another job in the same department, however, due to some disciplinary proceedings he was sent out.

10. On the above point, this Court has called for the lower court records. The lower Court records sent by the tribunal has reached this Court and on close scrutiny and screening of those documents, this Court finds that such plea was not raised by the Transport Corporation, either in the counter statement or during cross examination of PW1, assumes significance. Furthermore, Transport Corporation has not adduced any oral or documentary evidence in this regard. Therefore, I find that the argument now advanced by the appellant side is only an afterthought and self-saving



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statement and does not need any consideration. Accordingly, this Court has no hesitation to bruise aside the said contention for the reasons stated supra and the same stands rejected.

11. In the result, the award of the Motor Accident Claims Tribunal [Additional Special Judge], Krishnagiri, vide judgment and decree dated 30.09.2019 made in MCOP No.239 of 2015, does not warrant any interference and the same is confirmed.

12. The appellant-Transport Corporation, is directed to deposit the entire award amount, less the amount, if any deposited to the credit of the MCOP No.239 of 2015 on the file of Motor Accident Claims Tribunal [Additional Special Judge], Krishnagiri, within a period of eight weeks from the date of receipt of a copy of this order.

13. On such deposit, the claim petitioner/respondent is permitted to withdraw the same, less the amount if any already withdrawn, on making necessary application.



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14. With the above directions, the Civil Miscellaneous Appeal stands dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

03.03.2023

Index : Yes/No
Neutral Citation : Yes/No.
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To

The Additional Special Judge,
Motor Accident Claims Tribunal
Krishnagiri.



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RMT.TEEKAA RAMAN,J.,

ars

Pre-delivery judgment in
CMA No.1852 of 2022

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