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C.M.A(MD)No.878 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.08.2020

Pronounced On : 25.08.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.878 of 2019

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

: Appellant /Respondent

Vs.

Santhiveeran

: Respondent/Petitioner

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree in M.C.O.P.No.99 of 2015, dated 09.11.2018 on the file of the Motor Accident Claims Tribunal/Sub Judge, Aruppukottai.

For Appellant : Mr.K.Sudalaiyandi

For Respondent : Mr.M.Jothi Basu

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.99 of 2015, dated 09.11.2018 on the file of the Motor Accident Claims Tribunal/Sub Judge, Aruppukottai.



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2. The Appellant/Tamil Nadu State Transport Corporation, who was made liable to pay compensation of Rs.15,00,000/- with interest at 9.5% per annum to the respondent/claimant for the disability suffered by him, consequent to an accident occurred on 30.09.2015, challenged the liability mulcted on it and also the quantum of compensation awarded at by the Tribunal.

3. Though the appellant has challenged the finding with regard to the liability, the learned counsel for the appellant would submit that they are only disputing the quantum of compensation awarded at by the Tribunal.

4. The learned counsel for the appellant would submit that the Tribunal has committed grave error by applying the multiplier method and by computing 40% future prospects; that the Tribunal ought to have passed the award either by fixing multiplier method for the pecuniary loss of the claimant by considering the functional disability or to pass the award based on the disability certificate; that the amount awarded under the other heads are all highly excessive and that the total compensation awarded at by the Tribunal is also excessive and without any basis.



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5. The only point that arises for consideration is as to whether the quantum of compensation is just and proper and is in accordance with law ?

6. It is the case of the claimant that he was aged 55 years at the time accident and that he was working as mason and was earning a sum of Rs.15,000/- per month. According to the learned counsel for the claimant, the claimant has suffered total permanent disability and that the claimant cannot do any work and his total movement is restricted.

7. It is evident from Ex.C.1/certificate of disability issued by Medical Board that the Medical Board has assessed total disability at 87%, wherein they have specified that the claimant has suffered disability at 50% for Intellectual Impairment; 20 % for Carnial Nerve Involvement; 50% for Motor System Disability; 25% for Ataxia (Sensory or Cerebellar) and 7% for Cardio Thoracic Surgery Disability. Considering the medical evidence, the Tribunal has rightly come to a decision that the petitioner is a living dead person.



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8. As rightly contended by the learned counsel for the claimant , the claimant's total movement is restricted within his bed and that the claimant had lost his life for the remaining period also. The Tribunal has observed that the claimant should be compensated 40% of income as future prospects. The Tribunal has taken Rs.15,000/- as monthly income and calculated compensation and fixed Rs.7,92,000/- towards loss of future prospects. Considering the medical records available, the amount awarded at Rs.7,92,000/- cannot be found fault with.

9. The Tribunal has also awarded Rs.20,500/- for loss of earning; Rs.15,000/- for Transport expenses; Rs.3,000/- for extra nourishment; Rs.1,000/- for damage to cloth and articles; Rs.2,67,340/- for medical expenses; Rs.50,000/- for future medical expenses; Rs.1,000/- for other expenses; Rs.2,61,000/- for partial permanent disability; Rs.1,00,000/- for pain and sufferings and Rs.10,000/- for loss of amenities, all totalling Rs.15,20,840/-.

10. Considering the nature of the injuries suffered, period of inpatient treatment and the disability sustained and other attending facts and circumstances, the amount awarded under the various heads by the



Tribunal above referred, are very much reasonable and the same cannot said to be excessive.

11. The learned counsel for the claimant has also filed a memo stating that though the claimant is entitled to get more compensation, the claimant has not filed any cross objections for enhancement and that since the claimant satisfies with the amount awarded by the Tribunal, they have no grievance.

12. The learned counsel for the appellant would mainly contend that the Tribunal has awarded interest at 9.5% per annum, which is definitely excessive. Considering the above, the claimant is entitled to get 7.5% per annum from the date of petition till the date of realization.

13. The appellant has not canvassed any other reason or ground to impugn the award. Hence, this Court concludes that the award of the Tribunal, except the finding with regard to the interest, is liable to be confirmed. 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 point is answered accordingly.



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12. In the result, the Civil Miscellaneous Appeal is partly allowed and the award passed by the learned Motor Accident Claims Tribunal/Sub Judge, Aruppukottai, except the interest rate, stands confirmed. The appellant is directed to pay the award amount with interest at 7.5% from the date of petition till the date of realization, within a period of four weeks from the date of receipt of copy of this judgment, less the amount already deposited, if any and on such deposit, the claimant is permitted to withdraw the award amount, less the amount already withdrawn, if any, by filing a necessary application before the Tribunal. The parties are directed to bear their own costs.

25.08.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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K.MURALI SHANKAR,J.

das

To

1.The Motor Accident Claims Tribunal/Sub Judge,
Aruppukottai.

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

Pre-delivery order made in
C.M.A(MD)No.878 of 2019

25.08.2023