

(2013) 11 MAD CK 0184**Madras High Court****Case No:** C.M.A. No. 3296 of 2006 and M.P. No. 1 of 2006

The Managing Director, Tamil
Nadu State Transport
Corporation Ltd.

APPELLANT

Vs

A. Kannan and Chelladurai

RESPONDENT**Date of Decision:** Nov. 19, 2013**Hon'ble Judges:** S. Vimala, J**Bench:** Single Bench**Advocate:** A. Babu, for the Appellant;**Final Decision:** Partly Allowed**Judgement**

S. Vimala, J.

This Appeal is filed by the Transport Corporation, challenging the quantum of compensation awarded. The claimant, Kannan, aged 27 years, owning and running a medical shop in the name and style of "Kannan Pharmacy", earning a sum of Rs. 15,000/- per month, met with an accident on 23.10.1998. In respect of the injuries sustained, he filed a claim petition, claiming a sum of Rs. 5,00,000/- as compensation.

2. The Tribunal, on a consideration of the materials placed before it, awarded a sum of Rs. 40,000/- and the breakup details are as follows:-

Pain and sufferings and for having suffered seven simple injuries	Rs. 21,000/-
Medical expenses	Rs. 15,000/-
Loss of earning for one month	Rs. 2,500/-
Transport to hospital, extra nourishment and damage to clothing	Rs. 1,500/-

Rs. 40,000/-

3. Contending that the amount of Rs. 40,000/- awarded is exorbitant, having regard to the fact that the claimant has suffered only simple injuries, the Transport Corporation has filed this Appeal.

4. Learned counsel for the appellant submitted that the award of Rs. 40,000/- awarded under various heads cannot be sustained, on account of the fact that there is no such loss sustained by the claimant.

4.1. In order to appreciate the contentions raised, it is necessary to look into the nature of injury and the period of treatment. In paragraph 9 of the order of the Tribunal, there is a finding that the petitioner (claimant/Injured) has taken treatment as an inpatient for nine days i.e., from 15.10.1998 to 24.10.1998 at Konar Hospitals and he has sustained simple injuries. Considering the period of treatment and the nature of injuries, the Tribunal has only awarded a sum of Rs. 25,000/-, which cover dual claim made under pain and sufferings and the injuries sustained.

4.2. The claimant has claimed a sum of Rs. 2,25,000/- towards loss of earnings for a period of fifteen months.

4.3. The Tribunal has disbelief that the claimant was earning a sum of Rs. 15,000/- per month and the Tribunal has taken the monthly income only at Rs. 2,500/- per month. Loss of income has been awarded only for one month. Therefore, the loss of earnings, awarded at the rate of Rs. 2,500/- per month, cannot be said to be excessive.

4.4. The claim under various heads have been clubbed together and the sum of Rs. 1,500/- has been awarded towards Transport to hospital, Extra nourishment and Damage to clothing and articles. The Medical expenses have been awarded at Rs. 15,000/-, which is supported by Ex. P-7 medical bills. Therefore, the award amount passed by the Tribunal cannot be said to be excessive on any heads of claim. Therefore, this Appeal deserves to be dismissed.

5. However, the learned counsel for the appellant pointed out that, when the award was passed, the rate of interest prevailing was only 7.5% and not 9%. Therefore, this Civil Miscellaneous Appeal is allowed only in respect of rate of interest, modifying the rate from 9% to 7.5% per annum.

6. With the limited extent indicated above, this Appeal is allowed. In all other aspects, this Appeal stands dismissed. In the result, this Civil Miscellaneous Appeal is partly allowed. It is represented that the Transport Corporation has already deposited the entire amount of compensation. Therefore, the claimant is permitted

to withdraw the amount, as awarded by the Tribunal, less the amount already withdrawn, if any. In view of the modification in the rate of interest, the balance lying in the deposit will be payable to the Transport Corporation. No costs. Consequently the connected MP is closed.