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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.DEVADASS

C.M.A. (MD) No.935 of 2015

and

M.P. (MD) No.4 of 2015

1.The District Collector
Thoothukudi District

2.The Superintendent of Police
Thoothukudi District

... Appellants / Respondents

-vs-

Sivalingam

... Respondent / Petitioner

PRAYER: Appeal is filed under Section 173 of the Motor Vehicle Act, 1988, to set aside the Judgment and Decree, dated 23.04.2010, made in M.C.O.P.No.764 of 2008, on the file of the Additional District Judge (Fast Track Court No.II), Tirunelveli.

For Appellants : Mr.R.Anandharaj

JUDGMENT

As a very short point is involved and there are sufficient materials on record to dispose of the matter, we will dispose of this matter at the admission stage itself.

2. This is Government's appeal.

3. On 11.02.2008, at Eral in Thoothukudi District, the second appellant's Tempo Traveller Van intended to carry striking force met with an accident. In this, the respondent sustained grievous injuries on his right leg. He claimed compensation before the Motor Accident Claims Tribunal.

4. Appreciating the oral and documentary evidence, the Tribunal concluded that the accident was only due to the rash and negligent driving of the driver of the appellants' vehicle.



5. The Tribunal considering the then age of the respondent, namely, 42, fixed his income at Rs.4,000/- per month and adopted a rough and ready method, in toto, it had awarded him Rs.1,65,000/- as compensation together with interest at the rate of 8% per annum with costs.

6. The learned Government Advocate appearing for the appellants would submit that there is no proof to show that the respondent is an agriculturist and no satisfactory evidence was let in to show that he earned Rs.4,000/- per month.

7. The learned Government Advocate also submit that for 50% partial disability, proper method has not been adopted by the Tribunal. Under all other heads, the amount awarded is on the higher side.

8. I have anxiously considered the submissions of the learned Government Advocate, perused the materials on record and the impugned Award of the Tribunal.

9. On the aspect of negligence, the Tribunal weighed the evidence of P.W.1 and R.W.1. It is pertinent to note that F.I.R. has been registered against the driver of the van and even he was also charge sheeted. In the light of the above, the Tribunal has correctly fastened negligence on the part of the policeman.

10. The respondent was then 42 years old. Ofcourse, the Tribunal remarked that he could not produce materials to show that he is an agriculturist. That does not matters much, because for a person to prove that he is an agriculturist no employment certificate is needed. In villages most of them are agriculturists. Without doing agricultural work, they cannot survive. They are all toiling to feed us.

11. The Tribunal took Rs.4,000/- per month as his income. The accident took place in 2008. Nowadays, it is very difficult to get coolies to do agricultural work. Their wages have been revised based on the demand of their Unorganized Sector.

12. In the facts and circumstances, Rs.4,000/- per month even for a coolie is not abnormal. In other aspects, there is no abnormality. In the circumstances, I do not find any error or illegality in the Award passed by the Tribunal.

13. In the result, this appeal fails and it is dismissed. The Award of the Tribunal, passed in M.C.O.P.No.764 of 2008, is upheld. The entire award amount shall be deposited within two months from the date of receipt of a copy of this Judgment, less



amount, if any already deposited. On deposit, the entire amount, less if any withdrawn, shall be disbursed to the respondent. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (Crl.Side)

/True Copy/

Sub Assistant Registrar

To:

The Motor Accident Claims Tribunal,
(Additional District Judge)
Tirunelveli.

+1cc to Spl.Government Pleader Sr.No.50862

krk

AA/11.09.2015/3p-3c

P.DEVADASS, J.

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4

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