

**B. KOTHANDAPANI V. TAMIL NADU STATE TRANSPORT CORPORATION LIMITED**

CITATION: [(2011) 6 SCC 420]

**DECIDED on** - 12 May, 2011

**BENCH:** P. SATHASIVAM, B.S. CHAUHAN

**FACTS:**

1. The appellant-claimant sustained grievous injuries in a motor vehicle accident, which occurred on 21.05.1998 for which he made a claim before the Motor Accident Claims Tribunal, Chennai (hereinafter referred to as "the Tribunal") for a sum of Rs. 12 lakhs as compensation. The Tribunal, after finding that the accident was caused due to the negligence of the driver of the Tamil Nadu State Transport Corporation (Villupuram Division-III), Kancheepuram (hereinafter referred to as "the Corporation"), by order dated 20.12.2000, quantified the compensation and passed an award for Rs. 5,05,053.45.

2. Aggrieved by the award of the Tribunal, the Corporation filed C.M.A. before the High Court of Madras challenging the quantum of compensation. The appellant-claimant also filed C.M.A. before the High Court for the enhancement of the compensation amount. Since both the appeals arose from the same award of the Tribunal, the High Court heard and decided the appeals together and passed a common order on 13.12.2006 reducing the compensation to the extent of Rs. 1,00,000/-. In other words, by the said order, the High Court allowed the appeal of the Corporation to the extent of Rs. 1,00,000/- and dismissed the appeal of the claimant for enhancement of the compensation.

3. Questioning the judgment and final order of the High Court, the claimant has filed the above appeals by way of special leave petitions before this Court praying for enhancement of compensation to the extent awarded by the Tribunal.

**ISSUES:**

1. Whether the appellant is entitled to a sum of Rs. 1,00,000/- towards "permanent disability" in addition to the amount awarded under the head "loss of earning capacity"?

2. Whether the quantum of compensation aggrieves the Corporation?

3. Whether the quantum is enhanced as requested by the appellant?

**RULE:**

1. [Cholan Roadways Corporation Ltd. vs. Ahmed Thambi and Others, 2006 \(4\) CTC 433](#) [1], after finding that since the claimant had been awarded a sum of Rs. 3 lakhs towards the loss of

earning capacity set aside the award of Rs. 1,50,000/- granted under the head "permanent disability" and awarded a further sum of Rs. 50,000/- in addition to the amount awarded by the Tribunal.

2. [Section 110B of the Motor Vehicles Act, 1939](#) [2].

3. [Section 168\(1\) of the Motor Vehicles Act, 1988](#) [3].

### **ANALYSIS:**

The compensation for loss of earning power/capacity indeed has to be determined based on various aspects including permanent injury/disability. At the same time, it cannot be construed that compensation cannot be granted for permanent disability of any nature. For example, take the case of a non-earning member of a family who has been injured in an accident and sustained permanent disability due to amputation of leg or hand, it cannot be construed that no amount needs to be granted for permanent disability. It cannot be disputed that apart from the fact that the permanent disability affects the earning capacity of the person concerned, undoubtedly, one has to forego other personal comforts, and even for normal avocation they have to depend on others. In the case on hand, two doctors had explained the nature of injuries, treatment received and the disability suffered due to partial loss of eye-sight and amputation of the middle finger in the right hand and we have already adverted to the avocation, namely, at the time of the accident, he was working as Foreman in M/s Armstrong Hydraulics Ltd. Taking note of his nature of work, partial loss in the eyesight, loss of middle finger of the right hand, it not only affects his earning capacity but also affects normal avocation and day-to-day work. In such circumstances, we are of the view that the Tribunal was fully justified in granting a sum of Rs. 1,50,000/- towards permanent disability. 13) Considering the evidence of injured-claimant as PW-1 and two doctors as PWs. 2 & 3 coupled with the Disability Certificates and medical documents, we conclude that the High Court was not justified in disallowing a sum of Rs. 1,00,000/- from the total compensation of Rs. 5,05,053.45 awarded by the Tribunal. We agree with the contention raised by the learned counsel for the appellant-claimant and restore the award of the Tribunal. In other words, the Corporation is liable to pay Rs. 5,05,053.45 with interest as awarded by the Tribunal. If the said amount has not been deposited so far, the Corporation is directed to deposit the same in the Tribunal within two months from the date of the receipt of this order and if any amount had already been deposited/paid to the claimant, the same shall be adjusted. On such a deposit being made, the appellant-claimant is permitted to withdraw the same. The appeals are allowed to the extent mentioned above. There shall be no order as to costs.

### **CONCLUSION:**

The Supreme Court made the following observations in the case:

- That the compensation for loss of earning power/capacity has to be determined based on various aspects including permanent injury/disability. At the same time, it cannot be construed that compensation cannot be granted for permanent disability of any nature.

- It cannot be disputed that apart from the fact that the permanent disability affects the earning capacity of the person concerned, undoubtedly, one has to forego other personal comforts, and even for normal avocation they have to depend on others.

## **REFERENCE**

- [1] <https://indiankanoon.org/doc/1789577/>
- [2] <https://indiankanoon.org/doc/1037209/>
- [3] <https://indiankanoon.org/doc/41160316/>
- [4] <https://www.lawyerservices.in/B-Kothandapani-Versus-Tamil-Nadu-State-Transport-Corporation-Ltd-2011-05-12>



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