

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2015

CORAM

THE HON'BLE MR.JUSTICE N. KIRUBAKARAN

C.M.A.No.1134 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram) Limited,
No.3/137, Salamedu,
Vazhuthareddy,
Villupuram - 605 602. ..Appellant

/vs/

R.Hyder Ali ..Respondent

Prayer: Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and Decree dated 12.11.2013 made in M.C.O.P.No.990 of 2011 on the file of the Motor Accident Claims Tribunal, Special Subordinate Court at Cuddalore.

For Appellant : Mr.K.J.Sivakumar

JUDGMENT

This Civil Miscellaneous Appeal is filed by the Transport Corporation against the award of Rs.3,73,000/- passed by the Motor Accidents Claims Tribunal (Special Subordinate Court), Cuddalore, for the injuries sustained by the respondent, aged about 51 years, in the accident that had occurred on 02.01.2011.

2. Heard, Mr.K.J.Sivakumar, learned counsel appearing for the appellant/Transport Corporation, who would submit that Rs.7,500/- fixed by the Tribunal as monthly income of the respondent/claimant is on the higher side, in the absence of any material evidence. Therefore, he seeks to reduce the quantum of compensation.

3. However, on a perusal of the records, it is seen that the claimant sustained fracture of both bones in his right leg (viz) tibia and fibula and after treatment, there is malunion of bones, resulting in inability to walk normally and restriction of the movement of the right ankle. Therefore, PW2 doctor determined the partial permanent disability at 45%.

4. However, the Tribunal considering the avocation of the claimant, the part of the body in which the disability has been caused and the nature of disability caused, came to the conclusion that partial permanent disability caused to the claimant, at 45%, has reduced his earning capacity by 30%. The said determination is very reasonable and same is confirmed.

5. As the claimant was aged about 51 years, appropriate multiplier 11 was rightly applied. Though, the claimant claimed a sum of Rs.15,000/- as his income per month, the Tribunal rightly determined the monthly income at Rs.7,500/-, as no manual labour would have been available for less than Rs.7,500/- per month as on 02.01.2011. Therefore, Rs.7,500/- determined as monthly income is confirmed. Hence, the compensation granted by the Tribunal towards "Loss of income, due to disability" (viz) $\text{Rs.7,500} \times 12 \times 11 \times 30/100 = \text{Rs.2,97,000/-}$ is hereby confirmed.

6. The other amounts, namely, Rs.5,000/- awarded for "Transportation"; Rs.10,000/- towards "Pain and Suffering"; Rs.5,000/- towards "Extra nourishment"; Rs.5,000/- towards "Other incidental expenses" and Rs.51,000/- for "Medical Expenses" as per Exhibits P8 and P10 are reasonable and are confirmed. The award of Rs.3,73,000/- along with interest @ 7.5% per annum granted by the Tribunal is just compensation and the same is confirmed. The appeal fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

7. The appellant is directed to deposit entire amount along with interest and costs, within four weeks from the date of receipt of a copy of this order failing which the Chairman-cum-Managing Director and Financial Advisor-cum-Chief Accounts Officer of the appellant Transport Corporation shall appear before this court on 31.07.2015. On such deposit being made, the claimant is permitted to withdraw the entire amount within a period of one week thereafter.

8. Call for the matter for reporting compliance on 31.07.2015.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

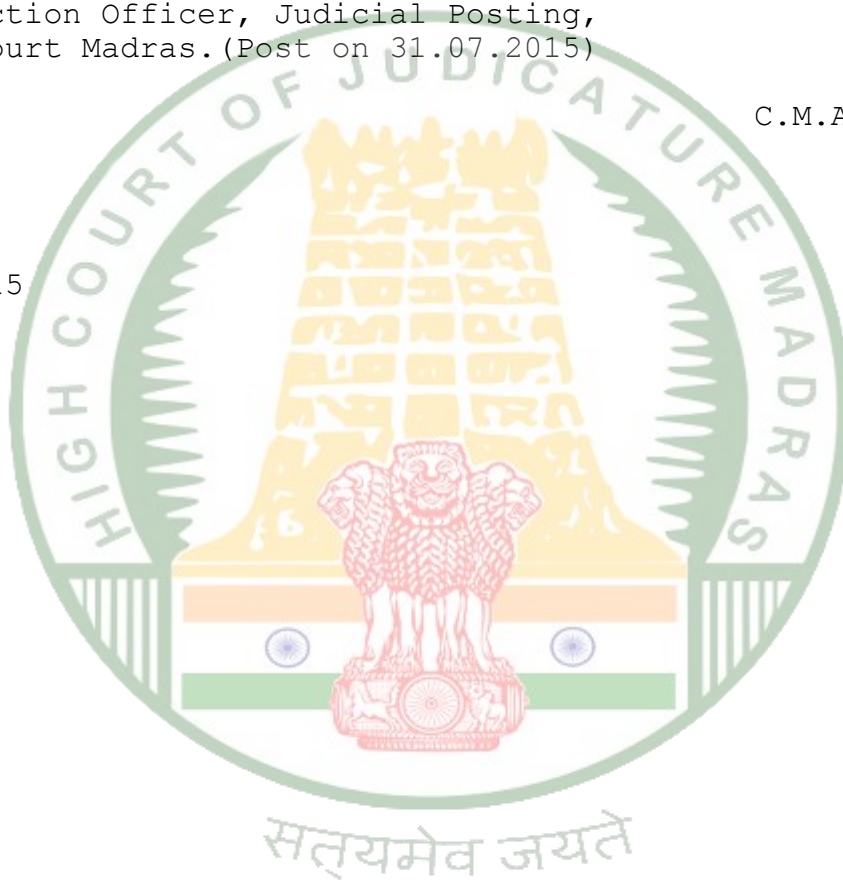
nvi

To

1. The MACT (Spl. Sub Court),
Cuddalore.
2. The Chairman Cum Managing Director
and Financial Advisor Cum - Chief Account Officer,
State Transport Corporation,
Villupuram.
3. The Section Officer, Judicial Posting,
High Court Madras. (Post on 31.07.2015)

C.M.A.No.1134 of 2015
and
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LRS (CO)
Eu 01.07.15



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