

`qa IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA No.1223 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Vellore.

...Appellant/Respondent

vs.

A.Subramani

...Respondent/Petitioner

Prayer :- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the judgment and decree passed by the Motor Accident Claims Tribunal, Krishnagiri, Principal Subordinate Judge, Krishnagiri in MCOP No.171 of 2010 dated 28.06.2013.

For Appellant : M/s.P.Paramasivadoss

J U D G M E N T

The appeal has been preferred by the Transport Corporation against the award of Rs.1,35,000/- as compensation to the respondent/claimant for the injuries sustained by him in the accident occurred on 20.01.2006.

2. Heard Mr.P.Paramasivadoss, learned counsel appearing for the appellant/transport corporation who would very elaborately and strenuously argue that for abrasion, the tribunal applied multiplier method and awarded a sum of Rs.1,35,000/- as compensation which is unwarranted. However, column No.11 of the claim petition as well as Ex.P4 discharge summary would reveal the following injuries -

(i) An abrasion 2 cm x 5 cm on the left knee

(ii) A contusion 3 cm x 6 cm on the left knee skin colour
(iii) A contusion 1 cm x 1½ cm on the left eyebrow skin colour
(iv) A contusion 2 cm x 2 cm on the right elbow skin colour
sustained by the respondent/claimant.

3. P.W.2, doctor deposed the disability sustained by the claimant as 35% as left knee joint medial condyle of tibia fractured ORIF with cancellous screw fixation surgery was done and he suffers with PTS and he could not fold and straight his leg and he has got difficulty in sitting down by folding legs and squat on the floor. Therefore, 35% disability was rightly determined by PW2, doctor. In the absence of any contra evidence, the tribunal ought not have reduced the disability to 30% and therefore, this court re-determines the disability at 35%. Awarding a sum of Rs.3,000/- per percentage of disability, a sum of Rs.1,05,000/- is awarded under the head disability as Rs.4,5000/- fixed by the tribunal per percentage is on the higher side. Though Rs.1,35,000/- was awarded towards disability, no amount was awarded towards pain & sufferings, extra nourishment, transportation, medical expenses and loss of amenities. Therefore, in an endeavour to award just compensation, a sum of Rs.25,000/- is awarded towards pain & sufferings, Rs.15,000/- towards extra nourishment, Rs.5,000/- towards transportation, Rs.10,000/- towards medical expenses and Rs.10,000/- towards loss of amenities. Thus, the amount of Rs.1,35,000/- awarded by the tribunal is hereby enhanced to Rs.1,70,000/-, break-up as follows -

1. For 35% Disability	...	Rs. 1,05,000/-
2. Pain & Sufferings	...	Rs. 25,000/-
3. Extra nourishment	...	Rs. 15,000/-
4. Transportation	...	Rs. 5,000/-
5. Medical expenses	...	Rs. 10,000/-
6. Loss of amenities	...	Rs. 10,000/-

Total	...	Rs.1,70,000/-
		=====

The rate of interest awarded by the tribunal @ 6% is very reasonable and the same is confirmed.

4. The enhancement as stated above has been made in the appeal filed by the transport corporation even in the absence of appeal / cross objection filed by the claimant and this Court has got power and jurisdiction to enhance the amount. Therefore, invoking Order 41 Rule 33, this Court, suo motto enhances the amount as the

appeal is a continuation of original proceedings.

5. The appellant/transport corporation is directed to deposit the entire amount awarded by this Court, alongwith interest and costs within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondent/claimant is permitted to withdraw the amount. In the event of failure on the part of the appellant/Transport Corporation to deposit the entire award amount alongwith interest and costs, on the aforesaid date, the Chairman cum Managing Director, the Financial Advisor and Chief Accounts Officer shall appear before this Court on the said date.

6. In the result, this Civil Miscellaneous Appeal is dismissed enhancing the compensation to Rs.1,70,000/- alongwith interest @ 6% per annum from the date of petition till the date of deposit. No costs. Consequently, connected Miscellaneous Petition are closed.

7. Since the appeal has been dismissed at the admission stage itself and the enhancement is being made, the respondent/claimant may not be in a position to know the enhancement of compensation. Therefore, registry is directed to sent a copy of this order directly to the respondent/claimant, free of cost. The Tribunal is directed to collect the requisite court fee for the enhanced compensation from the respondent/claimant, within a period of two weeks from the date of receipt of a copy of the order.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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rgr

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To

The Principal Subordinate Judge,
Motor Accident Claims Tribunal,
Krishnagiri.

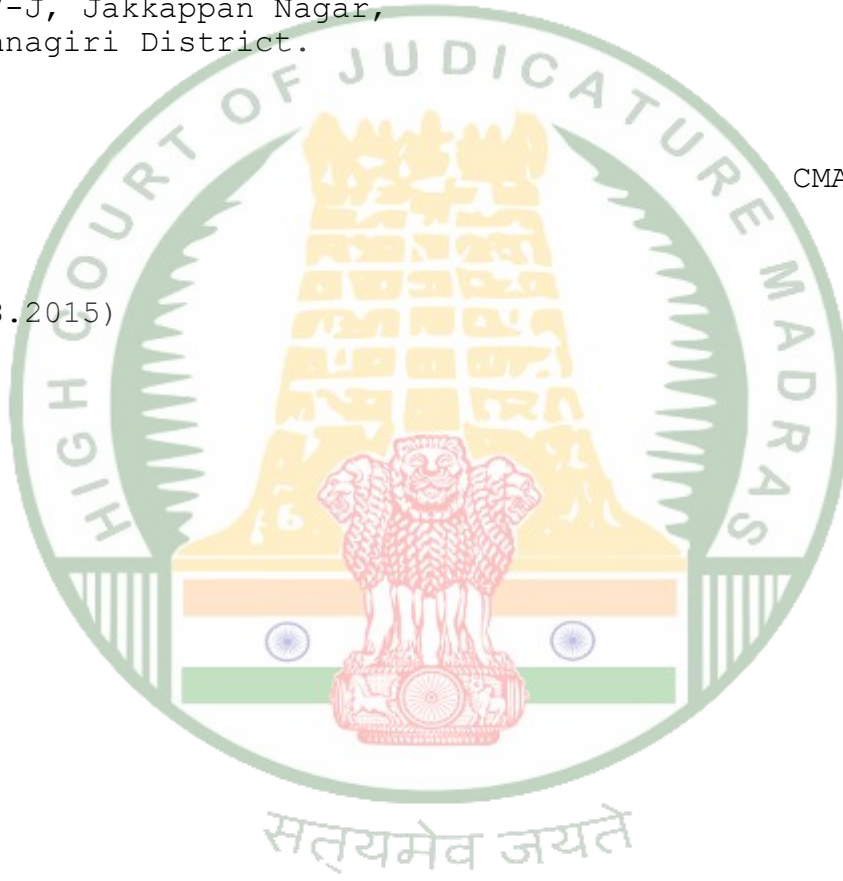
Copy to

A.Subramani,
S/o. Annamalai,
59, Railway Station Road,
Tirupattur, Vellore District.

and now residing at
No.27-J, Jakkappan Nagar,
Krishnagiri District.

CMA No.1223 of 2015

MG (CO)
PSI (10.08.2015)



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