

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2570 of 2015

The Managing Director
Tamil Nadu State Transport
Corporation Ltd.,
(Kumbakonam Division I) Ltd.,
Railway Station new road
Kumbakonam 612 001

..Appellant/Respondent

-Vs-

S.Appan Raj

..Respondent/Petitioner

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 13.12.2012 made in M.A.C.T.O.P.No.222 of 2011 on the file of the Motor Accidents Claims Tribunal (First Additional Subordinate Judge), Cuddalore.

For Appellant:: Mr.D.Venkatachalam

JUDGMENT

Questioning the quantum of compensation awarded by the Motor Accidents Claims Tribunal (First Additional Subordinate Judge), Cuddalore in M.A.C.T.O.P.No.222 of 2011 dated 13.12.2012, the present civil miscellaneous appeal has been preferred by the Tamil Nadu State Transport Corporation Limited (Kumbakonam Division-I) Limited.

2. Heard the learned counsel for the appellant and perused the materials available on record.

3. It is a case of injury claim. A perusal of the impugned award shows that on 9.8.2010 at about 9.30 a.m., while the respondent was travelling as pillion rider in the motor cycle bearing Registration No.TN-31-P-8715 from north to south direction on the extreme left of the Pondicherry-Cuddalore main road at Periyakattupalayam, the bus belonging to the appellant-Transport Corporation bearing Registration No.TN-49-N-1993 and driven by its driver, coming in the same direction at a very high speed in a rash and negligent manner without making any horn and without following the traffic rules and regulations, hit the motorcycle from behind, as a result the pillion rider suffered grievous injuries and multiple fractures all over the body. Subsequently, he was treated at Government Hospital, Cuddalore and transferred to Government General Hospital, Pondicherry for advanced treatment. As the respondent suffered

grievous injuries only due to the rash and negligent driving of the driver of the bus belonging to the appellant, he filed the claim petition before the Tribunal claiming a sum of Rs.5,00,000/- as compensation on the ground that he was aged 53 years at the time of accident and was working as Lower Division Clerk (Junior Writer) in the Community Health Centre, Pondicherry and earning a sum of Rs.9,500/- per month as salary.

4. However, the Tribunal, finding that the respondent was the sole bread winner and that the accident occurred only due to the rash and negligent driving of the driver of the bus, upon considering the Ex.P3-accident register showing that the respondent sustained fracture in his right humerus and also the Ex.P7-disability certificate issued by the doctor-PW2 assessing the permanent disability at 50% for the whole body, fixed the permanent disability at 15% on consideration of the evidence. The Tribunal also, considering the age of the respondent and applying the multiplier of 11, fixing the monthly income of the respondent at Rs.3,000/- per month in the absence of any proof produced by the respondent except the xerox copy of the identity card marked as Ex.P5, arrived at the sum of Rs.59,400/- i.e., (Rs.3000x12x11x15/100) for permanent disability, in the absence of rebuttal evidence. On this basis, the Tribunal awarded the total compensation in the following manner:-

Permanent Disability	-	Rs.59,400/-
Pain & sufferings	-	Rs.15,000/-
Loss of income	-	Rs. 6,000/-
Transport charges	-	Rs. 5,000/-
Extra nourishment	-	Rs. 4,000/-
Medical expenses	-	Rs.10,000/-

Total		Rs.99,400/-

The Tribunal also held that the above amount shall carry interest at the rate of 7.5% per annum from the date of petition viz., 9.12.2010 till payment.

5. On consideration of the entire evidence, both oral and documentary, this Court is of the view that the award of the Tribunal granting a just and reasonable compensation does not call for any interference. Accordingly, the civil miscellaneous appeal fails and it is dismissed at the admission stage. Consequently, M.P.No.1 of 2015 is also dismissed.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

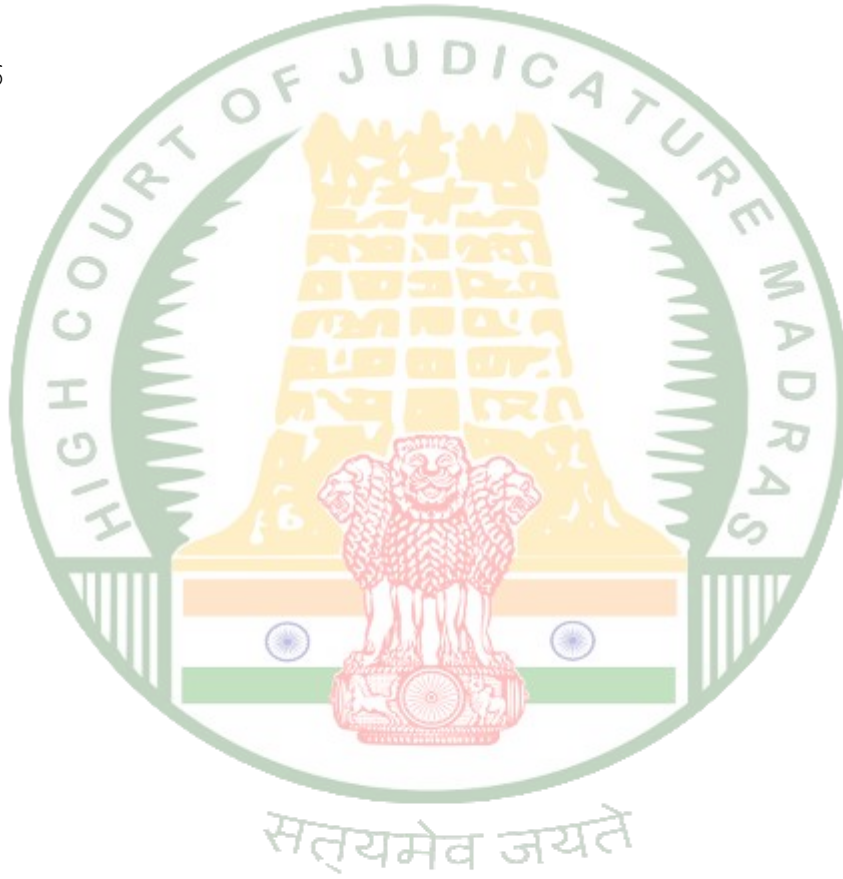
To

The Motor Accidents Claims Tribunal
(First Additional Subordinate Judge)
Cuddalore

+ 1 cc to Mr. D. Venkatachalam, Advocate Sr.62094

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GJ (CO)
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