

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2015

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THE HON'BLE MR.JUSTICE T.RAJA

C.M.A.No.2584 of 2015
and
M.P.No.1 of 2015

The Managing Director,
M/s.Tamil Nadu State Transport Corp.
(Kumbakonam) Ltd.,
Periya Melakuparai, Trichy.

... Appellant/Respondent

Vs.

S.Karthikeyan

... Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 30.12.2014, made in M.C.O.P.No.214 of 2013, on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate, Perambalur).

For Appellant : Mr.D.Venkatachalam

For Respondent : Mr.T.Gobinath

JUDGMENT

This Civil Miscellaneous Appeal is taken up for final disposal at the stage of admission itself.

2. This Appeal is filed by the appellant-State Transport Corporation, questioning the award of compensation made in favour of the injured/claimant. The main grievance raised in this Appeal is against the quantum of compensation of Rs.1,44,000/- awarded under the heading "Disability".

3. For better understanding, the amounts awarded as compensation by the learned Tribunal under different heads are as follows-

- | | | | |
|----|------------------------------------|---|---------------|
| 1) | Loss of Income (4,000 x 4) | : | Rs. 16,000/- |
| 2) | Pain and Sufferings | : | Rs. 15,000/- |
| 3) | Extra Nourishment & Transportation | : | Rs. 5,000/- |
| 4) | Disability- (Rs,4,000/- x36) | : | Rs.1,44,000/- |

5)	Medical Expenses	:	Rs.1,09,408/-
6)	Attender's Charges	:	Rs. 3,000/-

	Total		Rs.2,92,408/-

4. The learned counsel appearing for the appellant-Transport Corporation assailed the judgment of the learned Tribunal by contending that, when the learned Tribunal itself has referred to the judgment rendered in re (National Insurance Co. Ltd., Vs. G.Ramesh) reported in (2013) 2 TN MAC 583, wherein, this Court has clearly held that, "it would be more appropriate to accept Rs.3,000/- towards per percentage of disability", it ought not to have fixed Rs.4,000/- towards per percentage of disability. It is his further contention that, as per the Full Bench judgment of this Court, claimants are entitled only to a sum of Rs.2,000/- for each permanent disability, hence, the learned Tribunal ought to have fixed only Rs.2,000/- towards per percentage of disability. He furthermore contended that, though the Doctor, who was examined as P.W.1, given the disability certificate-Ex.P.6, assessing the disability at 36%, the learned Tribunal ought to have taken into consideration the fact that the injuries sustained by the petitioner are simple in nature, and the same will in no way affect the working or earning capacity of the claimant, and should not have awarded Rs.1,44,000/- which is highly excessive and exorbitant and the same needs reduction.

5. On the other hand, the learned counsel appearing for the respondent/claimant has pointed out that the compensation awarded towards i) Pain and Sufferings and ii) Extra Nourishment & Transportation are low, and the same requires enhancement. The learned counsel for the claimant has also, in support of his contention that the claimants are entitled to defend the award passed by the Tribunal in the Appeal filed by the Insurer, placed reliance on the decision of the Hon'ble Supreme Court reported in (2011) 2 TN MAC 313 (SC) in re (Ranjana Prakash and others Vs. Divisional Manager and another) wherein, it is held that in an Appeal filed by the Insurer, if the High Court proposes to reduce the award, the claimants can certainly entitled to defend the award passed by the Tribunal by pointing out errors and omissions in the award, even in the absence of any Appeal or Cross-Objection.

6. Heard the rival submissions made on either side.

7. I am not in complete agreement with the contentions raised by the learned counsel appearing for the appellant. When the learned counsel himself has taken a stand that the learned Tribunal has wrongly fixed Rs.4,000/- towards per percentage of disability by placing reliance on the judgment reported in (National Insurance Co. Ltd., Vs. G.Ramesh) referred

above, wherein, it is held that Rs.3,000/- would be more appropriate towards per percentage of disability, it is not open to the learned counsel to contend that the learned Tribunal ought to have fixed Rs.2,000/- only towards per percentage of disability. Such an inconsistent and diametrically opposed stand will not pass the test of reasonableness. Therefore, this Court, agreeing to the limited extent that the amount of Rs.4,000/- fixed towards per percentage of disability is on the higher side, is inclined to reduce the same from Rs.4,000/- to Rs.3,000/-.

8. Insofar as the contention of the learned counsel appearing for the respondent/claimant is concerned, this Court finds the same as just and correct.

9. For the reasons discussed above, this Court is inclined to modify the impugned award as follows :-

i.	Loss of Income	:	Rs. 16,000/-
1)	Pain and Sufferings	:	Rs. 25,000/-
2)	Extra Nourishment & Transportation	:	Rs. 11,000/-
3)	Disability- (Rs,3,000/- x36)	:	Rs.1,08,000/-
4)	Medical Expenses	:	Rs.1,09,408/-
5)	Attender's Charges	:	Rs. 3,000/-

Total			Rs.2,72,408/-

The said amount of Rs.2,72,408/- is payable with interest at the rate of 7.5% p.a. from the date of Petition till date of payment.

10. In the result, the compensation awarded by the Tribunal is reduced from Rs.2,92,408/- to Rs.2,72,408/-. The award of the Tribunal is confirmed in other aspects. Time for deposit of the entire amount, (excluding the mandatory deposit of Rs.25,000/-) is four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the amount by filing necessary Cheque Petition before the Tribunal.

11. The Civil Miscellaneous Appeal is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal
(Chief Judicial Magistrate),
Perambalur.

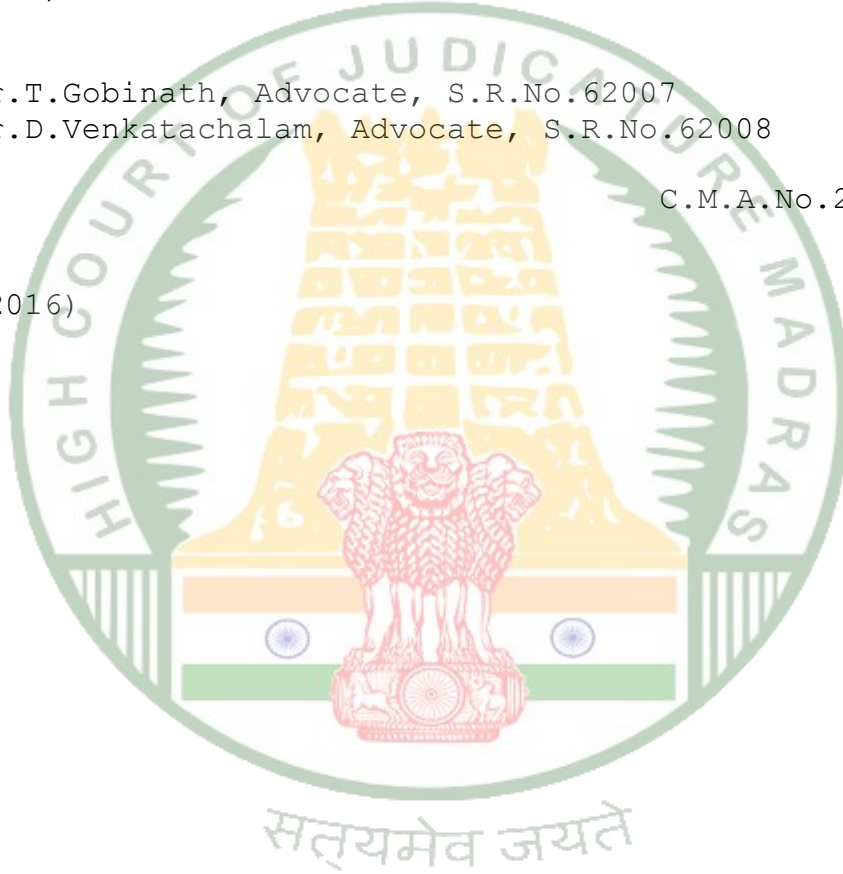
2.The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.T.Gobinath, Advocate, S.R.No.62007

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.62008

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PVS (CO)
CA(04/08/2016)



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