

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.06.2015

Coram:

The Hon'ble Mr. Justice N.KIRUBAKARAN

C.M.A.No.499 of 2015

S.Manibalan

.. Appellant/Petitioner

vs

The Managing Director
Metropolitan Transport Corporation Ltd.,
Pallavan Salai,
Chennai - 600 002.

.. Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against common judgment and decree in MCOP No.3657 of 2011 dated 23.09.2013 on the file of IV Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

For Appellant : Mr.A.Shanmugharaj
For Respondent : Mr.Paramasivadoss

J U D G M E N T

The appeal has been filed by the claimant against the award of Rs.1,04,000/- awarded by the tribunal for the injuries sustained by the claimant in the accident occurred on 10.01.2011.

2. Heard Mr.A.Shanmugharaj, learned counsel appearing for the appellant/claimant, and Mr.Paramasivadoss, learned counsel appearing for the second respondent/transport corporation.

3. It is seen from the records that the claimant sustained wedge compression fracture of D11, D12, vertebra left ankle and was treated as inpatient from 10.01.2011 to 20.01.2011. Ex.P14 is the scan report and subsequent treatment taken as puthur is reflected in Ex.P15. PW3 and PW4 spoke about the injuries and disability sustained by the appellant/claimant. Though PW4, doctor assessed the disability at 50% stating that because of the injuries, the claimant developed low back pain with spinal movement restricted to 30 degrees and active standing and walking restricted and was advised to wear belt and also taking short wave therapy for low back pain, the tribunal determined the disability rightly at 35%. Therefore, the determination of 35% disability cannot be said to be wrong. However,

the tribunal awarded only Rs.2,000/- per percentage of disability. Considering the fact that the accident occurred in the year 2011, this court determines a sum of Rs.3,000/- per percentage of disability and for 35% disability, a sum of Rs.1,05,000/- is awarded under this head.

4. In so far as other heads are concerned, the tribunal has awarded Rs.3,000/- towards transportation, Rs.5,000/- towards extra nourishment and Rs.20,000/- towards pain & suffering which are very low and therefore they are enhanced to Rs.10,000/-, Rs.15,000/- and Rs.30,000/- respectively. Similarly, no amount was awarded towards loss of amenities and therefore a sum of Rs.15,000/- is awarded under this head. Thus, the amount of Rs.1,04,000/- awarded by the tribunal is hereby enhanced to Rs.1,75,000/-, break-up as follows -

(i) Disability	...	Rs.1,05,000/-
(ii) Transportation	...	Rs. 10,000/-
(iii) Extra nourishment	Rs.	15,000/-
(iv) Pain & Suffering	Rs.	30,000/-
(v) Loss of amenities	Rs.	15,000/-

Total	...	Rs.1,75,000/-
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The rate of interest awarded by the tribunal @ 7.5% per annum shall stand confirmed.

5. In the result, the Civil Miscellaneous appeal is partly allowed. No costs. The respondent/Transport Corporation is directed to deposit the entire amount awarded by this Court, with interest and costs, on or before 22nd July, 2015 failing which the Chairman cum Managing Director, Financial Advisor and Chief Accountant Officer of the appellant Transport Corporation shall appear before this Court on 23rd July, 2015. On such deposit, the appellant/claimant is permitted to withdraw the same, after adjusting the amount already withdrawn, if any.

6. Post on 23rd July, 2015 for reporting compliance.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rgr

To

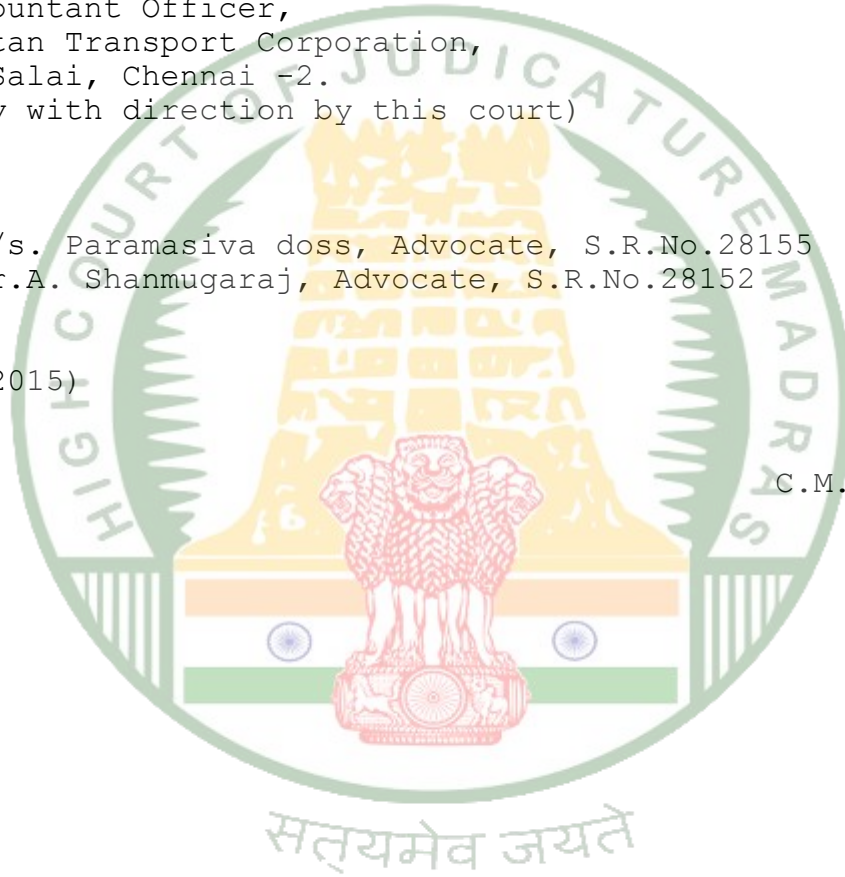
The IV Judge,
Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.

2. The Chairman Cum Managing Director,
Financial Advisor and
Chief Accountant Officer,
Metropolitan Transport Corporation,
Pallavan Salai, Chennai -2.
(to comply with direction by this court)

+1cc to M/s. Paramasiva doss, Advocate, S.R.No.28155
+1cc to Mr.A. Shanmugaraj, Advocate, S.R.No.28152

GP(CO)
EU(08/07/2015)

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