

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.631 of 2015

Balamurugan

... Appellant /Petitioner

Vs.

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

... Respondent /Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 07.09.2009 made in MACT.OP.No.762 of 2005 on the file of Motor Accident Claims Tribunal, (Subordinate Judge), Ponneri.

For Appellant : Mr.F.Terry Chella Raja
Respondents : Mr.S.Swaminathan

JUDGMENT

This appeal has been preferred by the claimant, aggrieved over the quantum of Rs.1,70,500/- awarded as compensation, for the injuries sustained by him, in the accident, which occurred on 09.09.2005.

2. Heard Mr.F.Terri Chella Raja, learned counsel appearing for the appellant and Mr.S.Swaminathan, learned counsel appearing for the respondent.

3. Today, the claimant is present before this Court and his condition is also seen by this Court and he is having a bag attached his body for collecting the urine and it is impossible for him to dispense with the bag. The claimant sustained the following injuries.

1. Both side cubic ramus fracture in hip
2. Sacrum Fracture
3. Urinary Bladder damaged
4. Permanent artificial urinary bag fixed
5. For motion artificial tube fixed in some other way.

4. In view of the puncture of the urinary bladder, he is passing his urine only through the tube annexed with the urinal bag. With this kind of disability it cannot be expected for a person to do normal work. The claimant underwent surgery and he was hospitalized for 51 days between 09.09.2005 to 29.10.2005. P.W.2 Doctor determined the disability at 100%. However, the Tribunal fixed the disability at 90%. Even this Court referred the claimant to the Doctor attached to the dispensary of this Court and the Doctor also, on examination, found that the claimant having disability between 80% to 90%. In view of that this Court confirming the disability at 90% and awards a sum of Rs.3,000/- per percentage and totally a sum of Rs.2,70,000/- is awarded towards disability. A sum of Rs.1,000/- awarded by the Tribunal towards transportation is too low and the same is hereby enhanced to Rs.10,000/-. Rs.25,000/- awarded by the Tribunal towards pain and suffering is hereby enhanced to Rs.1,00,000/-. Rs.5,000/- awarded by the Tribunal towards medical expenses is too low and the same is hereby enhanced to Rs.25,000/-. Rs.1,500/- awarded by the Tribunal towards extra-nourishment is hereby enhanced to Rs.15,000/-. Rs.3,000/- awarded by the Tribunal towards loss of income is too low, as the claimant has to necessarily under gone treatment at least for a period of six months and therefore a sum of Rs.18,000/- is awarded towards loss of income. Since no amount was awarded towards future medical expenses and loss of amenities and therefore a sum of Rs.25,000/- is awarded towards future medical expenses and a sum of Rs.35,000/- is awarded towards loss of amenities. The award of Rs.1,70,500/- is enhanced to Rs.5,00,000/- along with interest at the rate of 7.5% p.a.

5. The respondent transport corporation is directed to deposit the entire award amount, minus the amount already deposited, along with interest at the rate of 7.5% p.a. and costs, within a period of four weeks from the date of receipt of a copy of this order. Failing which, the Chairman cum Managing Director and Chief Accounts Officer shall appear before this Court on 08.06.2015. On such deposit, the appellant is permitted to withdraw 50% of the deposited amount and the balance amount shall be deposited in an interest bearing Fixed Deposit in any one of the Nationalized Bank at least for a period of six years and the appellant is permitted to withdraw the interest accruing on such deposit once in two months.

6. In view of the above, the Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rrg

To

1.The Motor Accident Claims Tribunal,
(Subordinate Judge),
Ponneri.

2.The Managing Director,
Metropolitan Transport Corporation,
Pallavan House,
Anna Salai,Chennai-600 002.

3.The Chief Accounts Officer,
Metropolitan Transport Corporation,
Pallavan House,
Anna Salai,Chennai-600 002.

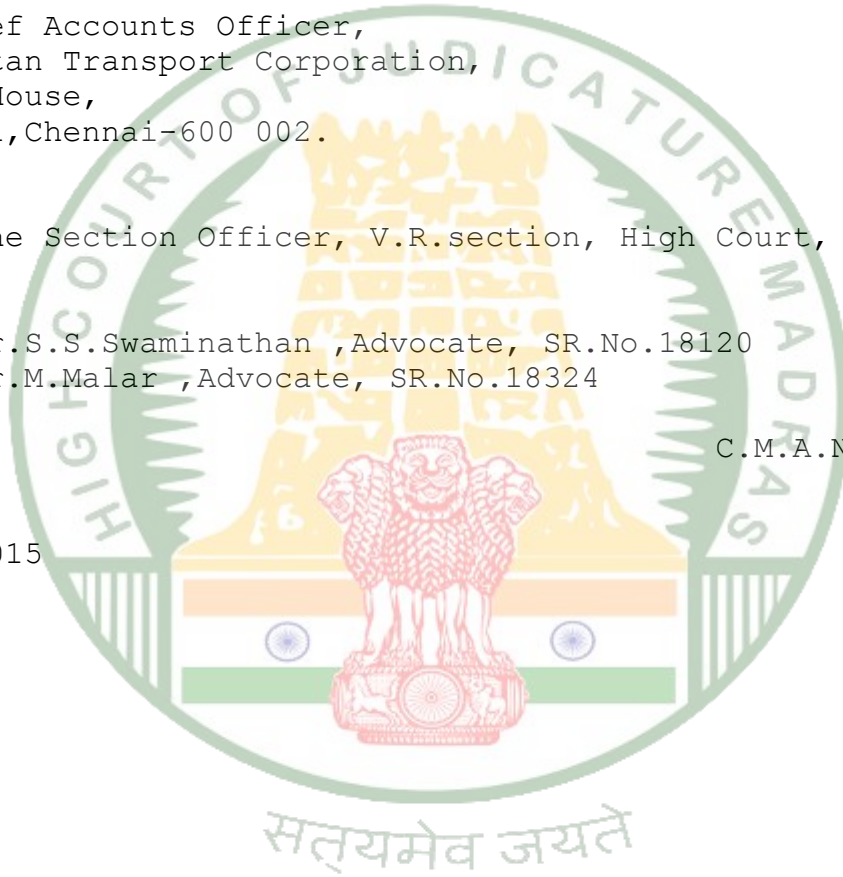
Copy to:The Section Officer, V.R.section, High Court, Madras.

1 cc to Mr.S.S.Swaminathan ,Advocate, SR.No.18120

1 cc to Mr.M.Malar ,Advocate, SR.No.18324

C.M.A.No.631 of 2015

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pmk.1.6.2015



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