

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.1.2015

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA.No.3051 of 2014

Anandhan

... Appellant /Petitioner

Versus

Managing Director,
Tamilnadu State Transport
Corporation (Villupuram),
Division I, 3/137, Salaimedu,
Vazhudhareddi Post,
Villupuram 605 602.

... Respondent/Respondent

This civil Miscellaneous appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree made in M.C.O.P.No.2090/2009 dated 24.11.2012 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate) at Cuddalore.

For Appellant : Ms.Gragalakshmi
for Mr.D.Baskar
For Respondent : Mr.K.J.Sivakumar

J U D G E M E N T

The appeal has been preferred by the claimant aggrieved over the quantum of Rs.1,85,000/- for the injuries sustained by him in the accident which occurred on 29.8.2009.

2. Heard Miss.Gragalakshmi, representing Mr.D.Baskar, learned counsel appearing for the appellant and Mr.K.J.Sivakumar, learned counsel appearing for the respondent-transport corporation.

3. The only question to be decided is with regard to the quantum of compensation as there is no appeal by the Transport Corporation. The appellant sustained injuries in the eyes and also in the head. He was brought to the Government Hospital Pondicherry in unconscious stage. As the appellant lost vision in right Eye, he was referred to Sankara Nethralaya Hospital, Chennai.

4. Medical evidence would reveal that the claimant sustained fracture in anterior and posterior lateral wall of right maxilla and fractures in orbital plate of frontal bone, right cribriform plate, superior aspect of right optic canal, posterior wall of right orbit, Mild cerebral oedema and traumatic Ischaemic optic Neuropathy.

Therefore, it is very clear that the appellant sustained injuries and he underwent surgery. The injuries affected the very vital part of Eye, which is an important for everyone, that too for a tailor. Therefore, based on the evidence of PW2-Doctor, who deposed based on medical records namely, Exs.P3 to P14 that the claimant sustained 45% disability and in the absence of any contra evidence by the respondent, the Trial Court ought to have accepted the disability at 45%, as fixed by the PW2-Doctor. Therefore, the disability sustained by the appellant in the accident occurred on 29.8.2009 is 45%. The income of Rs.6,000/- claimed before the Tribunal is on the higher side and hence the same is redetermined at Rs.4500/-. Since the claimant is aged about 33 years, the appropriate multiplier is 15 and the loss of income is calculated as follows: $\text{Rs.4500/-} \times 12 \times 15 \times 45/100 = 3,64,500/-$.

5. Rs.75,000/- awarded towards medical expenses is proved by Ex.P9 medical bill and hence the same is confirmed. Ex.P9, case sheet of Agarwal Eye Hospital, Chennai proves that the appellant sustained injuries in the eyes and therefore, the claimant should have suffered more pain and suffering. Hence, Rs.20,000/- awarded by the Tribunal towards pain and suffering is enhanced to Rs.50,000/-. Rs.10,000/- awarded towards mental agony amounts to double payment and hence, the same is deleted. As the appellant was admitted in the hospitals in Pondicherry as well as in Chennai, for transportation expenses, a sum of Rs.10,000/- awarded by the Tribunal is very low and the same is enhanced to Rs.25,000/-. Rs.10,000/- awarded towards loss of income during the period of treatment is sustained. Since, no amount was awarded towards extra nourishment, a sum of Rs.25,000/- is awarded. The award of the Tribunal Rs.1,85,000/- is enhanced to Rs.5,49,500/- is awarded. The rate of interest at 7.5% awarded by the Tribunal is confirmed. The appeal is partly allowed. No costs.

5. The respondent is directed to deposit the entire award amount along with interest and costs as per the order of this court on or before 26.3.2015 and on such deposit, the appellant is permitted to withdraw the entire award amount. In case if the respondent fails to deposit the entire award amount as per the order of this Court, on or before 26.4.2015, the Managing Director, the Chairman, Finance Adviser-cum Chief Accountant Officer of the Transport Corporation shall appear before this court on 27.3.2015. Call the matter on 27.3.2015 for compliance.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vk

To
The Motor Accidents Claims Tribunal (Chief Judicial Magistrate) at
Cuddalore.

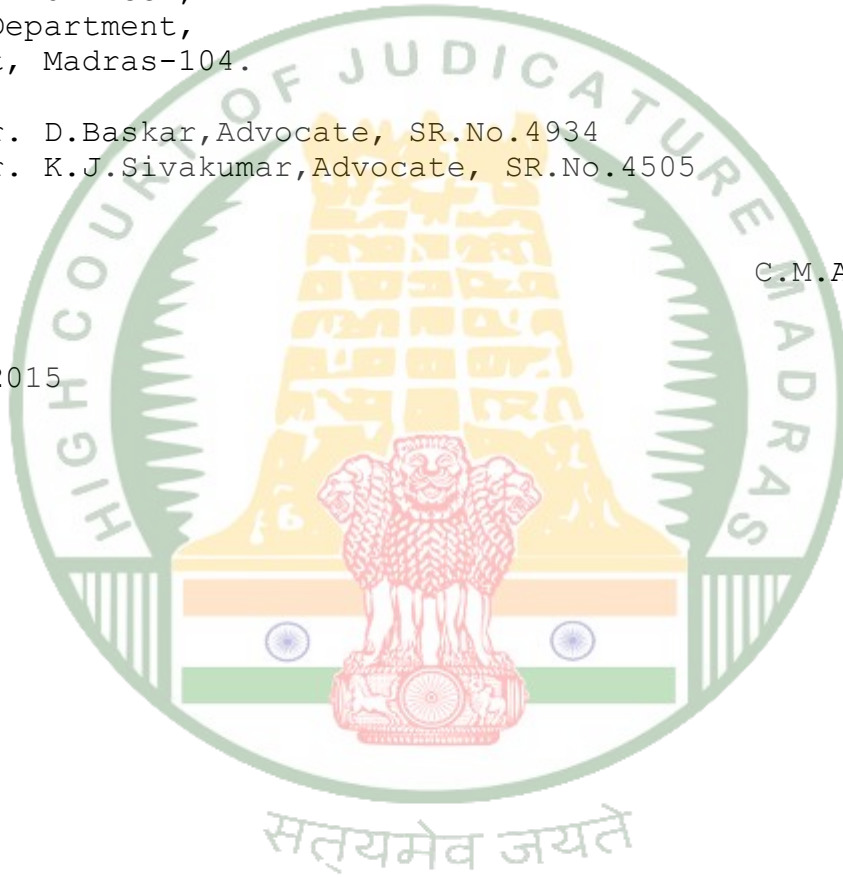
Copy to:
The Managing Director,
The Chairman, Finance Advisor -cum- Chief Accountant Officer)
Tamil Nadu Transport Corporation(Villupuram) Division I,
3/137, Salaimeadu,
Vazhudhareddi Post, Villupuram

The Section Officer,
Judicial Department,
High Court, Madras-104.

1 cc to Mr. D.Baskar, Advocate, SR.No.4934
1 cc to Mr. K.J.Sivakumar, Advocate, SR.No.4505

C.M.A.No.3051 of 2014

mg(co)
pmk.11.3.2015



WEB COPY