

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2015

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THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A. No.3002 of 2010

P.Marimuthu

... Appellant

Vs

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division - II, Vellore.

... Respondent

Prayer: This Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 25.11.2009, made in O.P.No.3944 of 2003, on the file of the VI Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

For appellant : Mr.A.Shanmugaraj

For Respondent : Mr.S.V.Vasanthakumar

JUDGMENT

Aggrieved by the award dated 25.11.2009, made in O.P.No.3944 of 2003, on the file of the VI Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai, the appellant has preferred the present appeal seeking for enhancement of the compensation.

2. Learned counsel appearing for the appellant submitted that while the appellant was riding his cycle on 21.09.2002 at about 10.30 p.m. along the trunk road, Poonamallee, the respondent Corporation bus bearing Registration No.TN-23-N-1402 came in a rash and negligent manner and dashed against the appellant. Such an accident resulted in multiple injuries all over the body to the appellant. Immediately after the accident, he was admitted in KMC Hospital as inpatient from

21.09.2002 to 23.09.2002 and thereafter, he took treatment as outpatient in Sundaram Hospital till the date of filing of claim petition.

3. By narrating so, learned counsel for the appellant contended that due to such an accident, the claimant suffered multiple injuries all over his body and this has resulted a loss of livelihood for about three months and he lost income Rs.3000/- per month. However, the Tribunal, without taking note of the same, awarded a sum of Rs.5,000/- towards loss of income, instead of Rs.9,000/-. It is further contended that though PW.2-Doctor assessed the disability at 30%, the learned Tribunal reduced the same to 25% by awarding Rs.2,000/- per percentage, instead of Rs.3,000/- per percentage. It is further submitted that the learned Tribunal has awarded a meager amount towards pain and suffering, extra nourishment and medical expenses, therefore, he prayed for enhancement of compensation on these heads also.

4. Learned counsel appearing for the respondent/Transport Corporation submitted that the Tribunal had considered all the relevant materials and evidence on record and came to the right conclusion and awarded a just, fair and reasonable compensation. Hence, the order of the Tribunal is in accordance with law and the same has to be confirmed.

5. Heard the learned counsel appearing on either side and perused the materials available before this Court.

6. It is an admitted fact that the claimant/appellant herein met with an accident on 21.09.2002 at about 10.30 pm., while he was riding his cycle along the Trunk Road of Poonamallee, whereby the respondent Transport Corporation bus bearing Registration No.TN-23-N-1402 came in a rash and negligent manner on the same direction and dashed against the claimant. Immediately after the accident, the claimant took treatment as inpatient for about 3 days in KMC Hospital, Chennai and thereafter, it appears that he took treatment in Sundaram Hospital, Chennai, till the date of filing of claim petition. Due to such accident, the claimant sustained fracture of left cuboid bone and there is a restriction of foot movement to 20 degree as deposed by the Doctor-P.W.2, who has also further assessed the disability at 30%. Therefore, it is the case of the appellant that he was unable to do any work for about three months, therefore, this Court by considering the fact that the foot movement of the appellant has got reduced to 20 degree as

deposed by the Doctor-PW.2, deems fit to enhance the compensation towards loss of income for three months at the rate of Rs.3,000/- p.m. Accordingly, a sum of Rs.9,000/- is hereby awarded towards loss of income for 3 months, instead Rs.5,000/- as awarded by the Tribunal. Further, this Court, by taking note of the fact that the claimant suffered multiple injuries all over his body, deems fit to enhance the compensation towards pain and sufferings. Accordingly, a sum of Rs.30,000/- is hereby awarded towards pain and sufferings, instated of Rs.10,000/- as awarded by the Tribunal. Except the modification on these two heads, rest of the award amount fixed by the Tribunal under various heads remains unaltered. The details of the modified compensation as per the above discussions are as under:-

Loss of income	-- Rs.9,000/-
Transportation	-- Rs.5,000/-
Extra nourishment	-- Rs.2,000/-
Medical expenses	-- Rs.5,000/-
Pain and sufferings	-- Rs.30,000/-
Permanent disability	-- Rs.50,000/-
Total	-- Rs.1,01,000/-

7. In fine, the respondent Transport Corporation is directed to deposit the entire amount of Rs.1,01,000/-, along with interest as ordered by the Tribunal, if not already deposited, to the credit of O.P.No.3944 of 2003, on the file of the VI Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant/appellant herein is permitted to withdraw the entire amount lying in the said credit. Accordingly, the Civil Miscellaneous Application is partly allowed to the extent mentioned above. No Costs.

Sd/-

सत्यमेव जयते
Assistant Registrar(CCC)

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Sub Assistant Registrar

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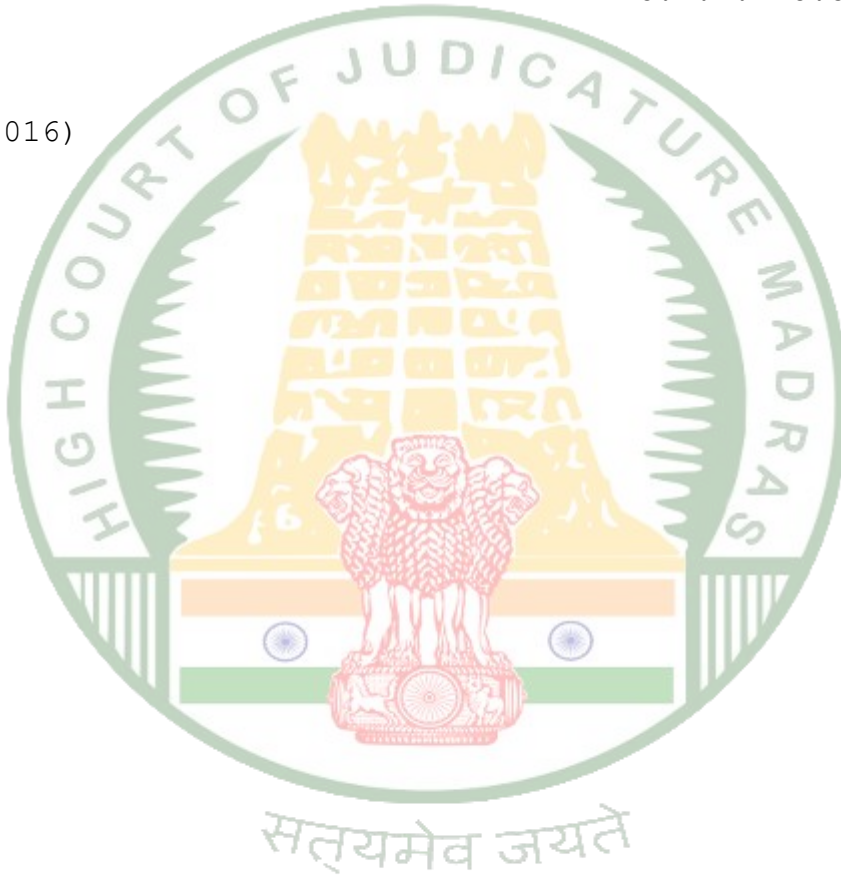
1. VI Judge, Small Causes Court
(Motor Accidents Claims Tribunal),
Chennai.

+1cc to Mr.A.Shanmugaraj, Advocate, S.R.No.63390

+1cc to Mr.S.V.Vasanthakumar, Advocate, S.R.No.63116

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CA(27/01/2016)



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