

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1039 of 2016

and

C.M.P.No.7971 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Bharathipuram, Dharmapuri. ... Appellant/Respondent

Vs

M.K. Srinivasan ... Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 07.09.2010 made in M.C.O.P.No.98 of 2002, on the file of the Motor Accident Claims Tribunal, Sub Judge, Hosur.

For Appellant : Mr. D.Venkatachalam

For Respondent :

J U D G M E N T

The Transport Corporation has come up with this appeal challenging the quantum of compensation awarded by the Tribunal.

2. In an accident which occurred on 03.05.2001, the appellant Transport Corporation bus dashed against the cycle of the respondent claimant, at Hosur By-pass road near Bagalur Jundction Road, whereby the claimant sustained fracture below his knee on the left leg and multiple injuries all over his body. Hence, he filed a Claim Petition before the Tribunal seeking a sum of Rs.1,60,000/- as compensation. After analyzing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.1,02,500/- as compensation, under the following heads:

Heads	Amount
Permanent Disability, loss of income and Medical expenses	Rs. 80,000.00
Pain and Sufferings	Rs. 17,500.00

Heads	Amount
Extra Nourishment & Transport Expenses	Rs. 5,000.00
Total	Rs.1,02,500.00

3. Learned counsel appearing for the appellant/Transport Corporation would mainly contend that the quantum of compensation awarded by the Tribunal is too high when the Doctor has wrongly fixed the disability at 40% . He would further contend that the Tribunal has not considered the deposition of the driver of the appellant Transport Corporation bus RW-1, denying the accident but has considered the evidence of PW1/ claimant, which has not been corroborated by any other independent witness.

4. It is found from the records that the Tribunal has passed the award based on documentary evidences and depositions of the witnesses. It has been stated by the Doctor that due to the fracture sustained by the claimant on the left leg, its malunion and restriction of movement, there is partial permanent disability of 40%, which has been rightly accepted by the Tribunal. Taking note of the age, disability and avocation, the Tribunal has awarded a just and reasonable compensation, which does not warrant any interference.

5. This Court considered the submissions made by the learned counsel for the appellant and perused the materials available on record. Since the respondent/ claimant will not be prejudiced with the result of this Appeal, the main case itself is disposed of at the stage of admission itself, without serving notice to them.

6. A perusal of the records would show that the Tribunal, based on oral and documentary evidences, has rightly come to the conclusion that due to the accident, the respondent/ claimant has suffered avocation. It is found that inspite of proper treatment, the left leg of the claimant is mal united and he is suffering from Ostiyo Arthritis and hence he cannot do any hard work in future. Hence, the 40% disability assessed by the Doctor has been rightly accepted by the Tribunal. Although the driver of the appellant Transport Corporation denies the accident, the same has not been proved by him and on enquiry the Tribunal found that the accident has occurred only due to the rash and negligent driving of the driver of the appellant Transport Corporation Bus. The compensation granted by the Tribunal under the other heads, are also fair and reasonable and hence, this Court finds that the quantum of compensation is not excessive and the same is confirmed.

7. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. The

appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest, less the amount already deposited, if any, to the credit of M.C.O.P.No.98 of 2002 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Hosur, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimant in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company. No costs. Consequently, connected C.M.P is also closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

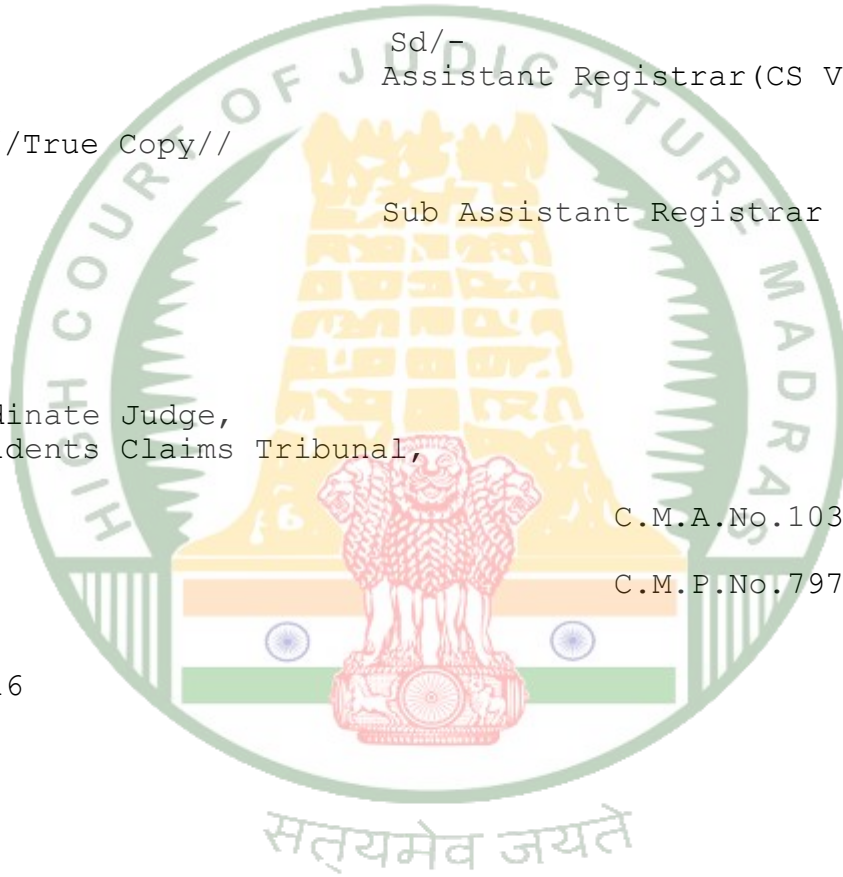
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To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Hosur.

C.M.A.No.1039 of 2016
and
C.M.P.No.7971 of 2016

RSK(CO)
EU 17.08.16



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