

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2016

CORAM:
THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1251 of 2011
and
M.P. No. 1 of 2011

The Managing Director,
Tamil Nadu State Transportation
Corporation Ltd.,
Coimbatore Division II,
Chennimalai Road
Erode.

... Appellant/2n Respondent

Vs.

1. Senthil Kumar ...1st Respondent/petitioner
2. M. Murugan ...2nd Respondents/1st
Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the fair and decreetal order dated 11.11.2009 made in M.C.O.P No. 91 of 2008 by the Principal Sub Judge, Motor Accident Claims Tribunal, Gobichettipalayam.

For Appellant : Mr. S.S. Swaminathan
For Respondent : Mr. Ma.P. Thangavel for R-1
R-2 given up

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 12.04.2007, the claimant sustained grievous injuries on the head, left shoulder, left wrist, left knee and multiple injuries all over his body. Hence, he filed a Claim Petition before the Tribunal seeking a sum of Rs.4,00,000/- as compensation. After analyzing the available oral and documentary evidences, the Tribunal awarded a sum of Rs.1,00,500/- as compensation, under the following heads:

Heads	Amount
Loss of income	Rs. 50,000.00
Medical Expenses	Rs. 25,545.00
Pain and Sufferings	Rs. 20,000.00
Extra nourishment	Rs. 5,000.00

Heads	Amount
Total	Rs.1,00,545.00
	rounded off to Rs.1,00,500.00

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 compared to the injuries sustained by the claimant. He would further contend that at the time of accident the claimant was working as a Mechanic cum electrician and that even the grant of award of the Tribunal would go to show that only minor injuries have been caused to the claimant and that the compensation awarded by the Tribunal under different heads to the tune of Rs.1,00,545/- is excessive and that there is no documentary evidence with regard to the salary drawn by the injured/ claimant and that the claimant has not established that there is loss of earning capacity.

4. On the other hand, learned counsel appearing for the respondent/claimant would submit that the Tribunal has awarded a fair and just compensation and that due to the accident the claimant is not able to work as before, since he is unable to lift or carry heavy items. Further, the claimant is unable to expose himself to sunlight and hence the Doctor has fixed partial disability at 20%. Hence, learned counsel sought for dismissal of the appeal.

5. A perusal of the records would show that the claimant has sustained a fracture on his head, due to which he is not in a position to lift heavy items and keep the same on his head, apart from the fact that he is not in a position to work, exposing himself to the sunlight and that the Doctor has given a certificate fixing his Partial Disability as 20%. I find that there is no error apparent on the face of the order, passed by the Tribunal. The Tribunal has rightly taken the income of the claimant as Rs.6000/-, which cannot be said to be excessive. Hence, the compensation awarded by the Tribunal at Rs.1,00,500/- is just and reasonable.

6. 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, to the credit of M.C.O.P.No.91 of 2008 on the file of the Motor Accidents Claims Tribunal, Principal Sub Judge, Gobichettipalayam, 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 M.P.No.1 of 2011 is also closed.

-s/d-
Assistant Registrar (CSIV)

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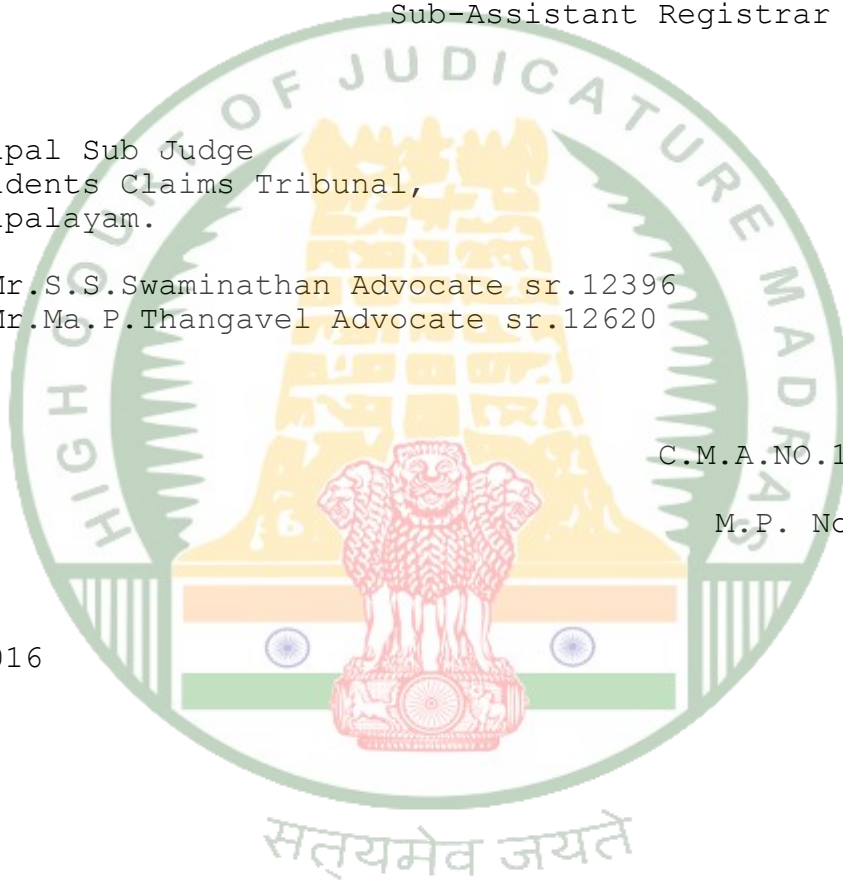
Sub-Assistant Registrar

avr
To
The Principal Sub Judge
Motor Accidents Claims Tribunal,
Gobichettipalayam.

+1 cc to Mr.S.S.Swaminathan Advocate sr.12396
+1 cc to Mr.Ma.P.Thangavel Advocate sr.12620

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M.P. No. 1 of 2011

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