

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2016

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

C.M.A.No.1220 of 2016

and

C.M.P.No.9217 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram.Appellant/Respondent

vs

Gopalakrishnan
S/o.ThiruvanRespondent/Petitioner

Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act against the judgment and decree dated 16.10.2014 passed in M.C.O.P.No.22 of 2010 on the file of Motor Accident Claims Tribunal, III Additional District and Sessions Judge, Cuddalore, Vridhachalam.

For Appellant : Mr.K.I.Sivakumar

J U D G M E N T

The present appeal has been filed against the judgment dated 16.10.2014 passed by Motor Accident Claims Tribunal, III Additional District and Sessions Judge, Cuddalore, Vridhachalam, in M.C.O.P.No.22 of 2010, filed by the claimant/respondent.

2. The appellant is the State Transport Corporation and owner of the bus bearing registration No.TN-32-N-1726, which was involved in an accident at about 2.30 p.m. on 03.04.2009 resulting in grievous injuries to the respondent, who was riding a two wheeler.

3. Before the Tribunal, on behalf of the claimant, three witnesses were examined and seven exhibits were marked. One witness was examined on behalf of the appellant transport corporation and no exhibits were marked. On appreciation of the materials before it, the Tribunal awarded compensation as follows:

(a) Loss of Income for 3 months: (4500 x 3)	Rs.	13,500/-
(b) Transportation	: Rs.	10,000/-
(c) Extra Nourishment	: Rs.	10,000/-
(d) Cost of attendant charges	: Rs.	10,000/-
(e) Medical expenses	: Rs.	10,000/-
(f) Pain and sufferings	: Rs.	20,000/-
(g) Disability 40% at the rate of Rs.2,000/- per percentage	: Rs.	80,000/-
		----- Rs.1,53,500/- -----

The said sum of Rs.1,53,500/- was directed to be paid together with interest at 7.5% per annum from the date of petition till the date of deposit.

4. Learned counsel for appellant submits that the compensation awarded by the tribunal is on the higher side.

5. The tribunal, considering the evidence of PWs.1 and 2 and Ex.P1 [First Information Report], found that it was the rash and negligent driving of the bus belonging to the appellant transport corporation that was the cause of the accident. Again, as against the claim of the deceased having earned Rs.10,000/- per month, the tribunal has fixed the same at Rs.4,500/- in the absence of any proof and considering the nature of injuries suffered by the claimant, the tribunal found that the claimant would have taken rest for at least three months and accordingly, calculated loss of income for three months. Given the nature of injuries suffered by the claimant, the tribunal has accepted the disability at 40% as assessed by PW-3, Doctor and awarded a sum of Rs.2,000/- per percentage of disability. This Court finds nothing wrong in the approach adopted by the tribunal. This Court also finds reasonable the award under the other heads.

6. In the result, this Civil Miscellaneous Appeal is dismissed and the award under challenge is confirmed. The appellant transport corporation is directed to deposit the entire award amount with interest, less that already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. Respondent/claimant is entitled to withdraw the amount on due application. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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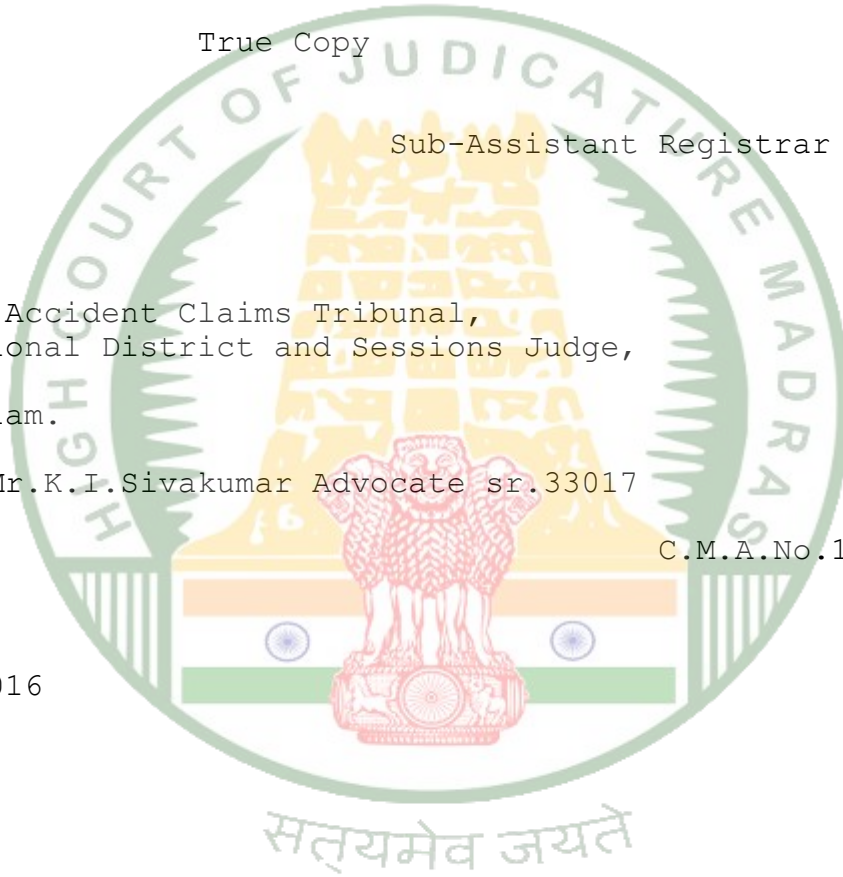
To

The Motor Accident Claims Tribunal,
III Additional District and Sessions Judge,
Cuddalore,
Vridhachalam.

+1 cc to Mr.K.I.Sivakumar Advocate sr.33017

C.M.A.No.1220 of 2016

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