

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2016

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THE HONOURABLE MR. JUSTICE C.T.SELVAM

C.M.A.No.1228 of 2016

and

C.M.P.No.9287 of 2016

Tamil Nadu State Transport
Corporation Ltd.,
Kancheepuram Division,
Kancheepuram. ...Appellant/Respondent

vs

D.Ramesh
S/o.P.Devaraj ...Respondent/Petitioner

Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act against the judgment and decree dated 11.03.2015 passed in M.C.O.P.No.244 of 2008 on the file of the Motor Accident Claims Tribunal, Additional Subordinate Court, Chengalpattu.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

The present appeal has been filed against the judgment dated 11.03.2015 passed by Motor Accident Claims Tribunal, Additional Subordinate Court, Chengalpattu, in M.C.O.P.No.244 of 2008, filed by the claimant/respondent.

2. The appellant is the State Transport Corporation and owner of the bus bearing registration No.TN-21-N-0811, which was involved in an accident at about 3.00 p.m. on 05.05.2008 resulting in grievous injuries to the respondent, who was standing on the bus stop.

3. Before the Tribunal, on behalf of the claimant, two witnesses were examined and nineteen exhibits were marked. None were examined on behalf of the appellant transport corporation nor were any exhibits marked. On appreciation of the materials before it, the Tribunal awarded compensation as follows:

I. Pecuniary Loss:

(a) Loss of earning capacity (35% x 2000)	: Rs. 70,000/-
(b) Attenders Help	: Rs. 3,000/-
(c) Nutritious Food	: Rs. 3,000/-
(d) Medical Bills (Exs.P4 to P16)	: Rs. 66,750/-

	Rs.1,42,750/-

II. Non Pecuniary Loss:

(a) Pain and Suffering	: Rs. 25,000/-
(b) Loss of Amenities	: Rs. 30,000/-

Total	: Rs. 55,000/-

Grand Total (I + II)	: Rs.1,97,750/-

The said sum of Rs.1,97,750/- 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 PW.1 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. Given the nature of injuries suffered by the claimant, the tribunal has fixed disability at 35% as against the disability assessed by PW-2, Doctor, at 40% and awarded a sum of Rs.2,000/- per percentage of disability. As there was no proof regards employment, no amount has been awarded under the head loss of income. Ex.P4 to Ex.P16, medical bills, have been accepted by the tribunal and a sum of Rs.66,750/- has been awarded under such head. 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.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

gm

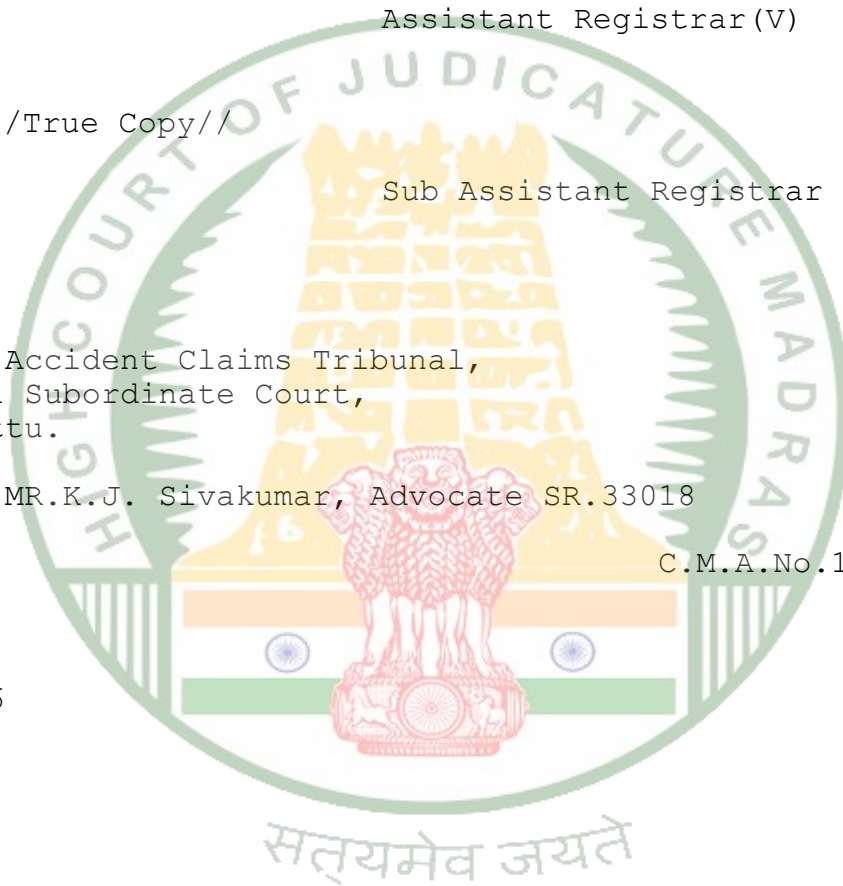
To

The Motor Accident Claims Tribunal,
Additional Subordinate Court,
Chengalpattu.

+ 1 cc to MR.K.J. Sivakumar, Advocate SR.33018

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