

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2552 of 2016

&

C.M.P.No.18191 of 2016

The Managing Director,
Tamil Nadu State Transportation Corporation
Kumbakonam Limited,
Railway Station New Road,
Kumbakonam.

... Appellant

Versus

D.Elango

... Respondent

Prayer : Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 13.04.2016 made in M.C.O.P.No.1884/2014 on the file of the Motor Accident Claims Tribunal, (1st Additional Subordinate Judge), Cuddalore.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The Managing Director of Tamil Nadu State Transport Corporation has filed the present Civil Miscellaneous Appeal, challenging the correctness of the impugned award dated 13.04.2016 made in M.C.O.P.No.1884/2014 on the file of the Motor Accident Claims Tribunal, (1st Additional Subordinate Judge), Cuddalore.

2.Learned counsel for the appellant/Transport Corporation heavily contended that though the claimant had sustained head injury, injury in his left leg, injury on his chin, hip and chest for which, he took treatment as inpatient in Government Hospital at Cuddalore for a period of three days, i.e. from 27.03.2014 to 29.03.2014, he has not sustained from any fracture. On the basis of the disability certificate issued by doctor/PW2, though there is no fracture, the Tribunal has fixed permanent disability at 10% which is improper. The Tribunal has also fixed a sum of Rs.6,500/- per percentage of disability which is an exorbitant and unreasonable and fixation of Rs.6,500/- per percentage of disability is unknown to law. As a result, the quantum of compensation has deliberately increased. Therefore, the appellant/Transport Corporation had been advised to challenge the impugned award.

3. Adding further, he would further submit that when a sum of Rs.20,000/- has been awarded towards pain and suffering and a sum of Rs.10,000/- towards loss of amenities, another sum of Rs.13,000/- has also been awarded towards loss of income during treatment and fixing of Rs.6,500/- per percentage of disability is unreasonable hence, the same needs to be interfered.

4. As per the contention raised by the learned counsel for the appellant Transportation Corporation, a sum of Rs.6,500/- fixed per percentage of disability needs to be interfered with, for, the appellant has not disputed the accident and also negligence. While coming to the quantum of compensation, learned counsel of the appellant has argued before this Court that when the injured was riding the Hero Honda motor cycle bearing Registration No.TN-31-BZ-5815 from north to south direction with a pillion rider Adhikesavan at a moderate speed, a bus, belonging to the appellant/Transport Corporation bearing Registration No.TN-68-N-0272, came from the opposite direction, dashed against the injured motor cycle. As a result, the injured / claimant sustained grievous injuries and immediately he was rushed to the Government Hospital, Panruti and after taking first-aid, he was again shifted to Government Hospital, Cuddalore and was admitted as inpatient for a period of three days and thereafter, he has taken treatment as outpatient at Dr.Sivasubramanian Hospital Cuddalore for the multiple injuries sustained by him. The doctor/PW2 has also deposed in his evidence before the Tribunal that in view of the multiple injuries, he has lost his memory power and subsequently, he is getting giddiness. More over, during the day time under the Sun, he is unable to work. However, the doctor has certified only 10% disability. Therefore, the Tribunal has fixed the permanent disability at 10%. However, the Tribunal while considering the nature of injuries, ought to have followed the ratio laid down in the case of NATIONAL INSURANCE CO. LTD., V. G. RAMESH in 2013 (2) TN MAC 583.

5. In my considered opinion, the compensation awarded under this head has to be modified. Accordingly, keeping in mind the price rise and escalation of the price of essential commodities, this Court is inclined to fix a sum of Rs.3,000/- per percentage of 10% disability and accordingly, by fixing so, this Court hereby awards a sum of Rs.30,000/- towards disability. By taking note of the fact that the injured has sustained multiple injuries, for which, he took treatment as inpatient for a period of three days, this Court hereby enhances the compensation towards pain and suffering from Rs.20,000/- to Rs.50,000/-. Except this modification, all other compensation awarded by the Tribunal under various heads remain unaltered. Accordingly, the Civil Miscellaneous appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

<https://hcservices.ecourts.gov.in/hcservices/>

6. Since the learned counsel for the appellant submitted that the appellant has deposited Rs.25,000/- towards statutory

deposit, the balance amount is directed to be deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimant to move a petition before the learned Tribunal for withdrawing the said amount.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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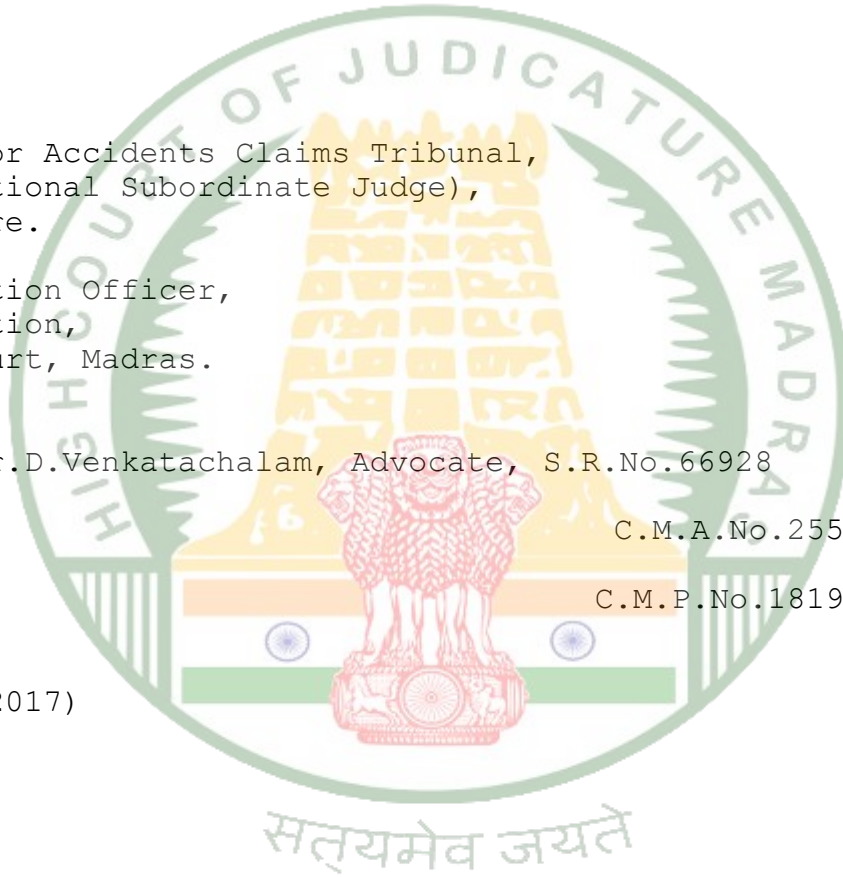
1.The Motor Accidents Claims Tribunal,
(I Additional Subordinate Judge),
Cuddalore.

2.The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.66928

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KSJ(CO)
CA(07/02/2017)



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