

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.08.2016

CORAM

THE HON'BLE MR. JUSTICE T.MATHIVANAN

C.M.A.No.524 of 2015

M.Murugesann

... Appellant

Vs.

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,

Salem

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the fair and decretal order dated 31.10.2013 passed in M.C.O.P.No.54 of 2009 on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Harur.

For Appellant : Mr.Thiruvengadam

For Respondent : M/s.R.T.Sundari

JUDGMENT

Having been not satisfied with the award passed by the Tribunal to the extent of Rs.2,98,000/- as against the claim of Rs.10,00,000/-, the claimant stands before this Court with this appeal under Section 173 of the Motor Vehicles Act, 1988.

2. The appellant had moved the Motor Accident Claims Tribunal with a claim petition in M.C.O.P.No.54 of 2009 claiming a sum of Rs.10,00,000/- for the injuries sustained by him in a Road Traffic Accident said to have been taken place on 14.09.2007 at 1.30am at NH47, Salem to Kovai main Road involving a passenger bus bearing Registration No.TN33-N-1722 belonging to the Respondent Transport Corporation.

3. According to the petitioner, he had sustained the following injuries in the above said accident:

i) Lacerated wound measuring 10x1x1cm on right temporal and occipital region; and

ii) Lacerated wound over the right eye measuring 1x1cm and

he had also sustained injuries over his right ear and other injuries on all over his body.

4. Soon after the accident he was taken to Government Head Quarters Hospital at Erode and after first aid, he was referred to Salem Vinayaka Mission Hospital for better treatment wherein he had been treated as inpatient. During the course of his treatment a surgery was also performed and he was on treatment in the above said hospital till 03.10.2007. The respondent Transport Corporation had contested the claim on various grounds. However, based on the evidences, both oral and documentary, the claims Tribunal had proceeded to award a sum of Rs.2,98,000/-.

5. It is pertinent to note here that PW2-Dr.P.Ramakrishnan had ascertained the percentage of disability suffered by the petitioner at 75%. The petitioner has claimed that at the time of the accident he was in occupation as Mixer Machine Operator and aged about 32 years and earned a sum of Rs.9000/- per mensem. The Disability Certificate issued by PW2 was marked as Ex.P9. As per Ex.P8 and P12, the appellant had totally spent a sum of Rs.1,28,044/- towards the medical expenses. Accordingly the Tribunal had awarded a sum of Rs.1,28,000/- towards medical expenses. Though the appellant had claimed that he was earning a sum of Rs.9000/- per mensem, the Tribunal, despite a Certificate produced by the appellant under Ex.P13 issued by AITUC, had ascertained his monthly income at Rs.4,000/-. Accordingly, the Tribunal had awarded the compensation to the extent of Rs.2,98,000/- under the following heads:

Towards permanent disability at 75% (Rs.2000/- per percentage of disability)	:	Rs.1,50,000/-
Loss of income for three months	:	Rs. 3,000/-
Pain and Suffering	:	Rs. 10,000/-
Medical Expenses	:	Rs. 1,28,000/-
Attendant Charges	:	Rs. 2,000/-
Nutritious Food	:	Rs. 3,000/-
Ambulance charges	:	Rs. 2,000/-
Total		Rs.2,98,000/-

6. Mr.K.Thriuvengadam, learned counsel appearing for the appellant has pointed out that the Tribunal had committed a serious error by assessing the disability at 75%. He has also added that the claims Tribunal had miserably failed to appreciate the evidences adduced by Pws 1 to 13. He would further submit that as per the medical bills and vouchers which

were marked as Exs.P8 to P12, the total amount comes to Rs.4,00,000/- but the Tribunal had erroneously awarded a sum of Rs.1,28,000/- only under the head of medical expenses. Therefore, the learned counsel has urged this Court to enhance the compensation.

7. On the other hand, the learned counsel for the respondent has vehemently objected the submissions made on behalf of the appellant and would contend that the award passed by the Tribunal was very much reasonable which did not require the interference of this Court.

8. Countering the argument, Mr.Thiruvengadam, learned counsel for the appellant has submitted that since the appellant / claimant had sustained serious injuries in the accident and the disability was assessed at 75%, which was permanent in nature, for quantifying the compensation multiplier system had to be applied.

9. This Court, on considering the evidences available on record, finds that the appellant's monthly income could be fixed at Rs.5,500/- instead of Rs.4,000/- fixed by the Tribunal. It is also significant to note here that at the time of accident, the age of the appellant was 32 years. Hence, as per the second schedule to Section 163A of the Motor Vehicles Act, 1988, the appropriate multiplier would be "16".

10. Keeping in view of the above fact, the monthly income of the appellant is fixed at Rs.5,500/-. Therefore, the annual income would be Rs.66,000/-. Multiplying this amount with the multiplier of 16, the product would be Rs.10,56,000/-. The loss of earning capacity to the extent of 75% of Disability would be Rs.7,92,000/-. The Tribunal had awarded a sum of Rs.1,28,000/- towards the medical bills and vouchers. This amount can be maintained. The Tribunal had awarded a sum of Rs.2,000/- towards the attendant charges. But, it can be enhanced to Rs.3000/-. Towards the nutritious food, the Tribunal had awarded only Rs.3,000/- and it can be increased to Rs.5000/-. The amount of Rs.2000/- awarded by the Tribunal towards the ambulance charges can be maintained. This Court, in total, as aforesaid has enhanced the compensation to the extent of Rs.9,90,000/- from Rs.2,98,000/- awarded by the Tribunal.

In the result, the Civil Miscellaneous Petition is allowed and the Respondent Corporation is directed to pay this enhanced compensation with interest at the rate of 7.5% per annum from the date of claim petition till the date of realization within a period of six weeks from the date of receipt of a copy of this order. On the deposit being made, the appellant is entitled to

withdraw the entire award amount with accrued interest and costs without actually filing any formal application seeking permission. No costs.

sd/
Assistant Registrar(CS II)

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Sub Assistant Registrar

gpa

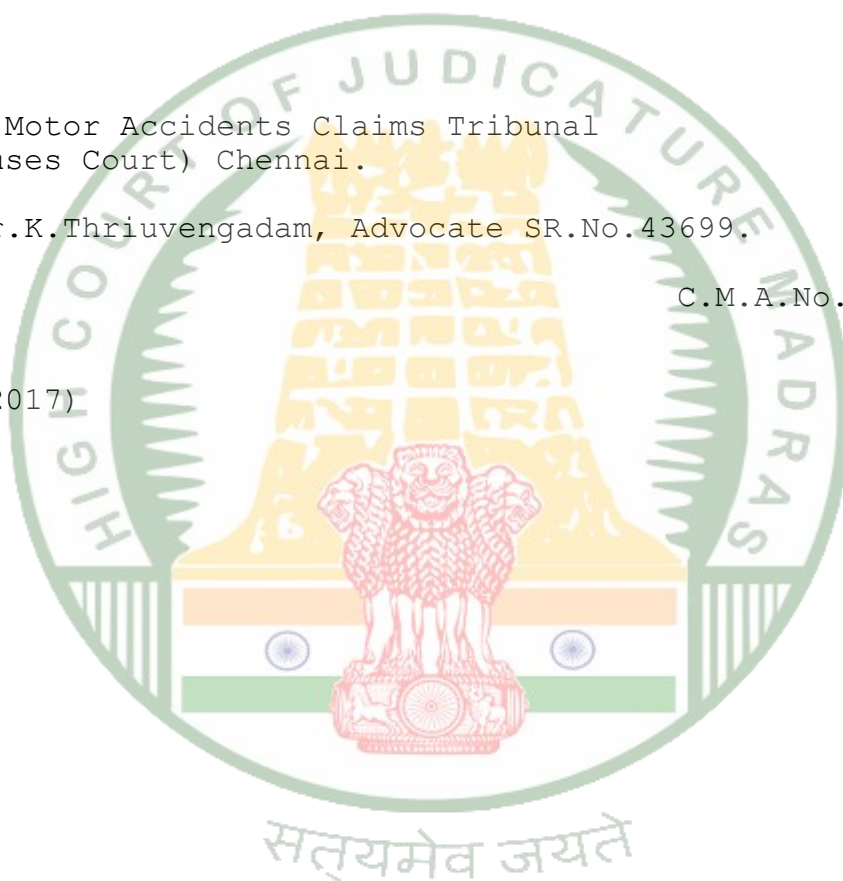
To

II Judge, Motor Accidents Claims Tribunal
(Small Causes Court) Chennai.

+1cc to Mr.K.Thriuvengadam, Advocate SR.No.43699.

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RP(CO)
GN(09/02/2017)



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