

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23.06.2016

CORAM
THE HONOURABLE MR.JUSTICE T. MATHIVANAN

C.M.A.No.731 of 2015
and
M.P.No.1 of 2015

The Managing Director,
Tamilnadu State Transport Corporation Limited.,
Division-1,
Kumbakonam. ...Appellant/Respondent

Versus

Mr.P.Mohan ... Respondent/Claimant

Prayer: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act of 1988, against the Judgement and decree dated 03.12.2011 passed in M.C.O.P.No.568 of 2009 on the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge), Cuddalore.

For Appellant : Mr.V.S.Vijay Veliappan

JUDGMENT

This memorandum of Civil Miscellaneous Appeal has been directed against the award passed by the Tribunal on the ground of quantum alone.

2. The appellant herein, is the respondent in the claim petition in MCOP.No.568 of 2009. The respondent/claimant herein, had moved the Motor Accident Claims Tribunal, with a claim of Rs.5,00,000/- for the injuries sustained by him in a road traffic accident, said to have been taken place on 24.02.2009, involving a Motor Cycle bearing Registration No.PY.01.X-4537 and a Bus bearing Registration No.TN-49-N-1947.

3. Since, this appeal is filed questioning the quantum alone, there is no necessity to traverse the facts at length in respect of negligence.

4. It is revealed from the records that the respondent/claimant had sustained comminuted fracture over his left clavicle and subsequently, underwent Surgery. Ex.P4, is the Discharge Summary issued by the Authority of Kannan Hospital at Cuddalore. The respondent/claimant was aged about 35 years at the relevant period. However, the Tribunal had fixed the age of

the claimant at 36 years. His monthly income was determined by the Tribunal @ Rs.4500/-. Therefore, the Tribunal, on appreciation of the evidences of PW2, Dr. Venugopal and Ex.P9, Disability Certificate had assessed the disability suffered by the petitioner @ 15%.

5. It is to be noted that PW2, Dr.Venugopal had examined the petitioner clinically and estimated the disability @ 45%. PW2, while deposing the evidence had stated that the whole body disability comes to 1/3rd i.e., out of 45%, the percentage of 1/3rd would be 15%. Therefore, the Tribunal had determined the disability @ 15%.

6. Another thing is to be placed on record is that the monthly income of the deceased was determined by the Tribunal @ Rs.4500/-. Accordingly, the annual income of the deceased would be @ Rs.54,000/-. Applying the multiplier of 15, to the age group of 36, the pecuniary loss to the family would be @ Rs.8,10,000/-. The loss of earning capacity to the extent of 15% would be calculated @ Rs.8,10,000/-X15/100=1,21,500/-. Accordingly, the Tribunal had calculated the loss of earning capacity @ Rs.1,21,500/-, besides the compensation for other non pecuniary losses. Tribunal had also awarded the compensation under the following heads:

(i) Loss of income for three months	13,500/-
(ii) Transportation charges	5,000/-
(iii) Extra Nourishment	5,000/-
(iv) Medical Expenses	30,000/-
(v) Damages to Cloths	500/-
(vi) Attending Charges	2,000/-
(vii) Pain and Suffering	15,000/-

The Tribunal had directed the appellant /Transport Corporation to pay this amount to the respondent/claimant with interest @ 7.5% per annum.

7. This Court having regard to the related facts and circumstances, is of considered view that the award passed by the Tribunal does not require the interference of this Court.

8. In the result, the Civil Miscellaneous Appeal is dismissed. The award passed by the Tribunal is confirmed. Consequently, connected miscellaneous petition is closed. It is to be seen that no reference is available to show that the appellant/ Transport Corporation has deposited the award amount alongwith the accrued interest. Hence the appellant /Transport Corporation is directed to deposit the entire award amount alongwith the accrued interest @ 7.5% per annum and cost from the date of claim petition within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the respondent/claimant is entitled to

withdraw the entire award amount alongwith the accrued interest and cost without actually filing any formal application seeking permission. However, there shall be no order as to cost.

Sd/-
Asst.Registrar)

/true copy/

Sub Asst. Registrar

To

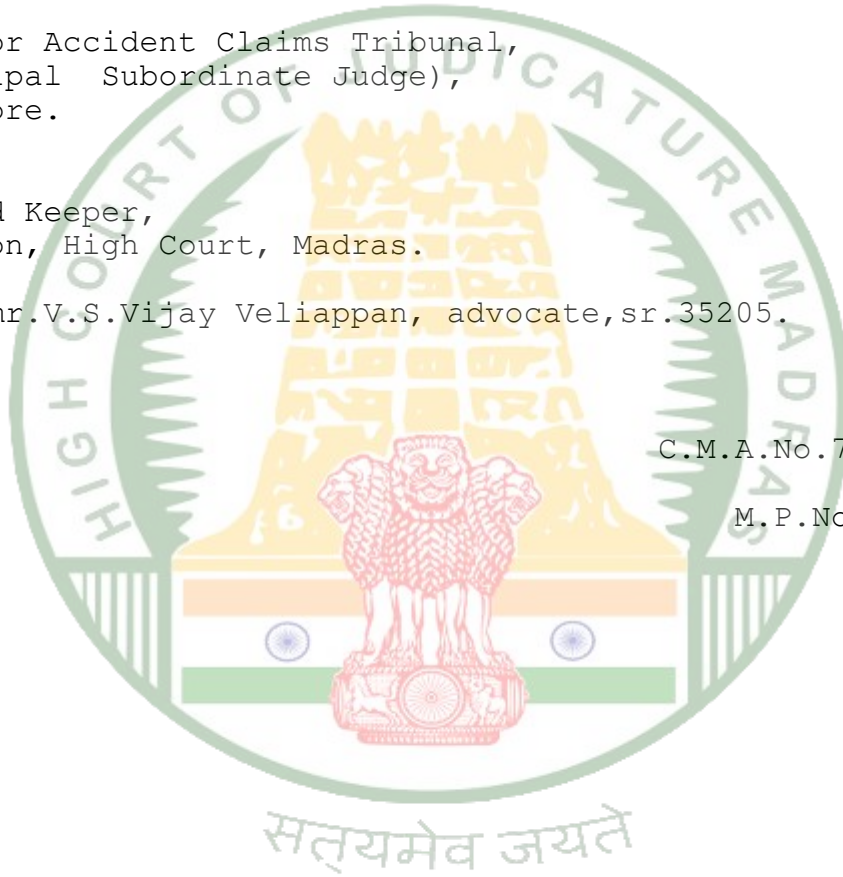
1.The Motor Accident Claims Tribunal,
(Principal Subordinate Judge),
Cuddalore.

Copy to:
The Record Keeper,
V.R.Section, High Court, Madras.

+1 cc to mr.V.S.Vijay Veliappan, advocate,sr.35205.

kgk(co)
krd 23/8

C.M.A.No.731 of 2015
and
M.P.No.1 of 2015



WEB COPY