

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.885 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation (Salem) Limited,
Regional Office, Bharathipuram,
Dharmapuri-5.

... Appellant/1st
Respondent

-Vs-

1.K.Devarajan ... 1st Respondent/Claimant

2.T.Yashodhai

3.The Branch Manager,
Royal Sundaram Alliance Insurance
Co. Limited, Branch Office,
Sankari Town and Taluk,
Salem District.

... R2 & R3/Respondents 2 & 3

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988 against the judgment and decree dated
24.10.2013 made in M.C.O.P.No.500 of 2009 on the file of the
Motor Accidents Claims Tribunal, Additional Special Judge,
Krishnagiri.

For Appellant : Mr.D.Venkatachalam

For Respondents : R1 - No appearance
R2 & R3 - Batta due

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J U D G M E N T

The Transport Corporation has come up with this appeal
mainly challenging the quantum of compensation awarded by the
Tribunal.

2. In an accident which occurred on 06.11.2007, the
claimant, a 56 year old Tradesman in TNSTC Limited, Hosur
Branch, sustained injuries, for which, he filed a claim
petition before the Tribunal claiming a sum of Rs.10,00,000/-
as compensation.

3. On consideration of the entire oral and documentary evidence, the Tribunal held that the accident occurred due to the rash and negligent driving of the Driver of the appellant Transport Corporation Bus and awarded a sum of Rs.9,45,086/- as compensation to the claimant with interest at 6% per annum. Details of the award are thus:

Heads	Amount
Permanent disability at 60%	Rs. 1,80,000.00
Pain and Suffering	Rs. 50,000.00
Medical Expenses	Rs. 5,94,386.00
Future Medical Expenses	Rs. 50,000.00
Loss of Income	Rs. 70,700.00
Total	Rs. 9,45,086.00

4. Learned counsel for the appellant/Transport Corporation contended that the Tribunal ought not to have awarded a sum of Rs.3,000/- for each percentage of permanent disability and further contended that the compensation granted towards Medical expenses is not corroborated by requisite Medical Bills.

5. To prove his injuries, the claimant marked Ex.P2-copy of the Accident Register and Ex.P3 - Wound Certificate, both issued by Government Hospital, Hosur. Ex.P7 - Discharge Summary of SPARSH Hospital, Bangalore reveals that the claimant was admitted on 07.11.2007 and discharged on 21.12.2007 and wound debridement and external fixator application were done on 07.11.2007; pin re-adjustment and triangular frame was applied on 08.11.2007; Gracillis Free flap with external fixation was done on 02.11.2007 and Flap division was done on 04.12.2007. As could be seen from Ex.P8 - Discharge Summary, the claimant was again admitted in SPARSH Hospital on 29.01.2008, external fixator was removed and Ilizarov fixator application was done on 02.02.2008 and he was discharged on 08.02.2008. P.W.2 - Doctor, who examined the claimant opined that the left leg of the claimant is shortened by one inch than the right leg; left leg tibia fractures are malunited by 4 degrees in a curve shape; fibula fracture is malunited by 2 degrees and he cannot walk for long distance, climb steps, sit down folding legs and squat easily and assessed his disability at 60% with respect to his left leg and 50% for the whole body.

6. Taking the disability assessed by P.W.2 - Doctor as 60%, the Tribunal, fixed a sum of Rs.3000/- for each percentage of disability and awarded a sum of Rs.1,80,000/- towards 'permanent disability'. This Court in the case of

Karuppasamy vs. M.Thirumal and others reported in CDJ 2015 MHC 2735, fixed Rs.3,000/- for each percentage of disability. In view of the ratio laid down therein and also, considering the injuries sustained by the claimant, this Court finds no reason to interfere with the compensation awarded by the Tribunal towards 'Permanent Disability'.

7. Coming to the contention of the appellant/Transport Corporation that the compensation awarded towards 'Medical expenses' is not corroborated by requisite Medical Bills, it is seen that Exs.P14 and P15 are Medical Bills for a sum of Rs.3,22,909/- and Rs.17,477/-, respectively. The main dispute is with regard to Ex.P16-Advance Medical bill for Rs.2,54,000/-, which was awarded by the Tribunal. Of course, the Tribunal ought not to have sanctioned an Advance Medical Bill. But, taking note of the fact that no amount has been awarded towards 'Attendant charges' and 'Loss of amenities' and further taking note that the interest awarded on the compensation is only at 6% per annum and not 7.5% per annum, this Court finds no reason to interfere with the compensation awarded against Ex.P16 - Advance Medical Bill and the same is confirmed. As far as other heads are concerned, this Court is not inclined to interfere with the same, as they are just and reasonable.

8. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation, i.e. a sum of Rs.9,45,086/- (Rupees Nine Lakhs Forty Five Thousand Eighty Six only) and the rate of interest at 6% per annum awarded by the Tribunal. It is made clear that if no amount is deposited so far, the appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.500 of 2009 on the file of the Motor Accidents Claims Tribunal, Additional Special Judge, Krishnagiri within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimant in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company. No costs. Consequently, connected M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

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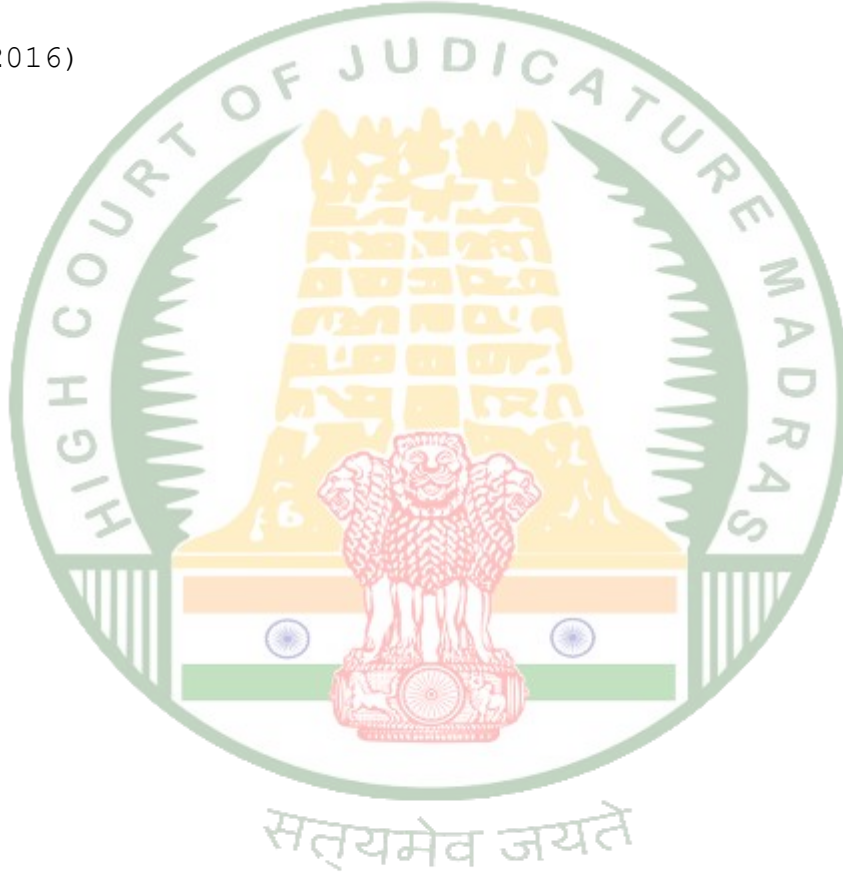
To :

The Motor Accidents Claims Tribunal,
Additional Special Judge,
Krishnagiri.

+lcc to Mr.D.Venkatachalam, Advocate, S.R.No.25275

C.M.A.No.885 of 2015

VD(CO)
CA(25/10/2016)



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