

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.844 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division,
Villupuram District. Appellant/Respondent

Vs.

Premnath ... Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 16.03.2015 made in M.C.O.P No.3272 of 2011 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

Challenging the award of the Tribunal mainly on the question of quantum, the Transport Corporation has come up with this appeal.

2. In an accident which occurred on 24.03.2011 about 14.30 hours, the respondent/claimant sustained multiple injuries, for which, he claimed a sum of Rs.6,00,000/- as compensation. The Tribunal, on consideration of the oral and documentary evidence, fixed the negligence on the driver of the appellant/Transport Corporation Bus and awarded a sum of Rs.6,28,000/- as compensation with future interest at 7.5% per annum (except for Rs.1,00,000/- awarded towards future medical expenses) from the date of numbering the petition till the date of realization. Details of the award are as under:

S.No.	Heads	Amount
1	Disability	Rs. 2,10,000.00
2	Pain and suffering	Rs. 1,00,000.00
3	Extra Nourishment	Rs. 75,000.00
4	Transport to Hospital	Rs. 50,000.00

S.No.	Heads	Amount
5	Damages to clothes	Rs. 3,000.00
6	Attender charges	Rs. 50,000.00
7	Medical expenses	Rs. 16,000.00
8	Future Medical expenses	Rs. 1,00,000.00
9	Loss of income	Rs. 24,000.00
	Total	Rs. 6,28,000.00

3. Learned counsel for the appellant/Transport Corporation contended that the Tribunal ought not to have fixed the permanent disability of the claimant at 70%, which is on the higher side. It is also his contention that the Tribunal has awarded excess compensation of a sum of Rs.1,00,000/- towards future medical expenses and Rs.75,000/- towards extra nourishment.

4. From the records, it is seen that the respondent/claimant is a Painting Contractor by profession, earning a sum of Rs.10,000/- per month. In support of his avocation, Ex.P5 - Certificate of Registration of Commercial Tax, Ex.P6 - Certificate of Service Tax Registration and Ex.P8 - Work Order are marked and the Tribunal fixed his monthly income at Rs.8,000/-, which, in view of this Court is not excessive. It is further seen that the claimant has sustained fracture of both bones in the right leg as also in the left leg and multiple injuries all over the body. P.W.2 -Doctor who examined the claimant assessed his permanent disability at 75%. But, the Tribunal, taking into account the variations upto 5% in assessing disability, fixed the disability of the claimant as 70%. The Tribunal has awarded a sum of Rs.2,10,000/- towards disability, by fixing Rs.2000/- for each percentage of disability, which in view of this Court is not excessive.

5. It is further seen that the claimant had initially taken treatment in Government Hospital, Chennai and produced Medical Bills amounting to a sum of Rs.16,000/- towards treatment. According to the claimant, even after prolonged treatment and surgery, fracture of both bones in the right leg and left leg is not united and deformed, resulting in restriction of movement in both legs. Taking into account the present circumstances and also considering the nature of injuries sustained by the claimant, this Court is of the view that a sum of Rs.50,000/- would suffice to meet the future medical expenses of the claimant. Accordingly, the compensation of a sum of Rs.1,00,000/- awarded towards 'future medical expenses' is modified to a sum of Rs.50,000/-. Further, this Court is inclined to modify the compensation awarded under the heads 'pain and suffering' and 'extra

nourishment'. Accordingly, the claimant is entitled to a sum of Rs.75,000/- towards 'pain and suffering' and a sum of Rs.50,000/- towards 'extra nourishment'. In all, the claimant is entitled to a sum of Rs.5,28,000/- as compensation. Interest at the rate of 7.5% per annum granted by the Tribunal is confirmed. Details of the modified award are tabulated below:

S.No.	Heads	Award of the Tribunal	Modified Award of this Court
1	Disability	Rs.2,10,000.00	Rs. 2,10,000.00
2	Pain and suffering	Rs.1,00,000.00	Rs. 75,000.00
3	Extra Nourishment	Rs. 75,000.00	Rs. 50,000.00
4	Transport to Hospital	Rs. 50,000.00	Rs. 50,000.00
5	Damages to clothes	Rs. 3,000.00	Rs. 3,000.00
6	Attender charges	Rs. 50,000.00	Rs. 50,000.00
7	Medical expenses	Rs. 16,000.00	Rs. 16,000.00
8	Future Medical expenses	Rs.1,00,000.00	Rs. 50,000.00
9	Loss of income	Rs. 24,000.00	Rs. 24,000.00
	Total	Rs.6,28,000.00	Rs. 5,28,000.00

6. The appellant/Transport Corporation is directed to deposit the modified award of this Court in entirety together with accrued interest to the credit of M.C.O.P.No.3272 of 2011 on the file of the Motor Accidents Claims Tribunal, [IV Court of Small Causes], Chennai, 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.

7. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016, scrupulously.

The Civil Miscellaneous Appeal is allowed with the above direction and observation. No costs. Consequently, connected C.M.P.No.6915 of 2016 is closed.

Sd/-
Assistant Registrar(CS III)

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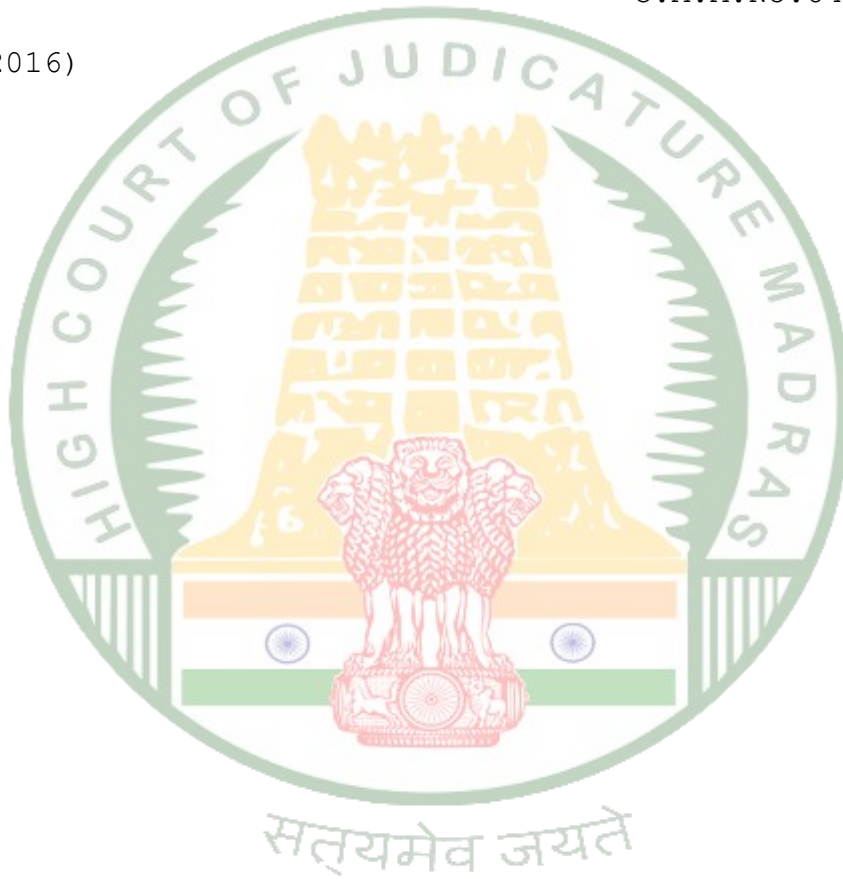
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To

The IV Judge,
Court of Small Causes,
Motor Accidents Claims Tribunal,
Chennai.

C.M.A.No.844 of 2016

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CA(03/08/2016)



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