

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.877 of 2016

&

C.M.P. No.7042 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Valluthareddy,
Villupuram-605 602.

..Appellant/Respondent

Vs.

Viswanathan

..Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed Under Section 173 of Motor Vehicles Act, 1988 as against the order and decreetal order dated 06.01.2015 made in M.C.O.P. No.3743 of 2012 on the file of Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant :: Mr.K.J.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the order and decreetal order dated 06.01.2015 made in M.C.O.P. No.3743 of 2012 on the file of Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai.

2. In an accident that took place on 07.04.2012, a 37 years old banana seller by name Viswanathan, who sustained multiple head injuries and multiple fractures all over the body, had approached the Tribunal claiming compensation to the tune of Rs.10,00,000/-.

3. The Tribunal based on the oral evidence of the witnesses, and the documentary evidence, granted the following amounts as compensation with interest at 7.5% per annum:-

Sl.No	Head	Amount granted by the Tribunal
1	Disability (55% x 3000)	Rs.1,65,000/-
2	Pain and Suffering	Rs.1,00,000/-
3	Medical Expenses	Rs.1,73,581/-
4	Extra Nourishment	Rs. 1,00,000/-
5	Transportation	Rs. 75,000/-
6	Loss of amenities	Rs. 1,00,000/-
7	Damage to clothes	Rs. 3,000/-
8	Attender charges	Rs. 50,000/-
9	Loss of earning	Rs. 39,000/-
10	Loss of Future Prospects	Rs. 1,00,000/-
	Total	Rs.9,05,600/-

4. Aggrieved over the said award, the Transport Corporation has come forward with this Civil Miscellaneous Appeal.

5. The contention of the learned counsel for the appellant/Corporation is that the Tribunal has erred in awarding compensation towards permanent disability at 55%, which is on the higher side and further contended that the Tribunal ought not to have awarded a sum of Rs.1,00,000/- each towards Extra nourishment, loss of future prospects, pain and sufferings and loss of amenities which appears on the higher side. Hence, the learned counsel for the appellant prayed for interference of this Court and in any event, according to him, the compensation should be reduced.

6. A glance of the award of the Tribunal would make it clear that pursuant to the accident that took place on 07.04.2012, the injured was admitted in Global Hospital, Chennai from 07.04.2012 to 25.04.2012 as inpatient and he is taking treatment till date. The Tribunal has taken note of Ex.P2-discharge summary, which would reveal that the injured sustained bilateral thin acute SDH with multiple brain contusions and minimally displaced, fracture of right temporal bone and diffuse axonal injury. P.W.2 Doctor has assessed the disability at 60%.

Though PW2 has assessed the disability at 60%, the Tribunal has taken the disability only at 55% and fixing a sum of Rs.3,000/- per percentage of disability, awarded a sum of Rs.1,65,000/- under the head Permanent disability based on the decision of the judgement reported in NATIONAL INSURANCE COMPANY V. C.T.SELVAM, 2013(5) TNMAC 583, which is a reasonable one. The Tribunal has taken note of the fact that the injured sustained multiple injuries and fracture in head and he would have suffered a lot and he cannot do his normal work as before. Considering all these aspects, the Tribunal has rightly awarded a sum of Rs.1,00,000/- each towards Extra Nourishment, Pain and Suffering, Loss of amenities and Loss of Earnings. Though the future prospects would not come in this case and that the Transportation is also on the higher side, the compensation awarded under the heads Pain and Sufferings, Extra Nourishment are very meagre and the compensation awarded under the said heads cannot be found fault with. Hence this Court finds no reason to interfere with the compensation awarded by the Tribunal and hence the appeal is dismissed. No costs. Connected miscellaneous petition is closed.

7. The Appellant Transport Corporation is directed to deposit the entire award amount together with proportionate costs and interest @ 7.5% per annum from the date of claim petition to the credit of M.C.O.P.No.3473 of 2012 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai, if not already deposited, within a period of six weeks from the date of receipt of a copy of this order and on such deposit being made, the respondent herein/claimant is entitled to make necessary application to withdraw the same.

8. 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.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS VI)

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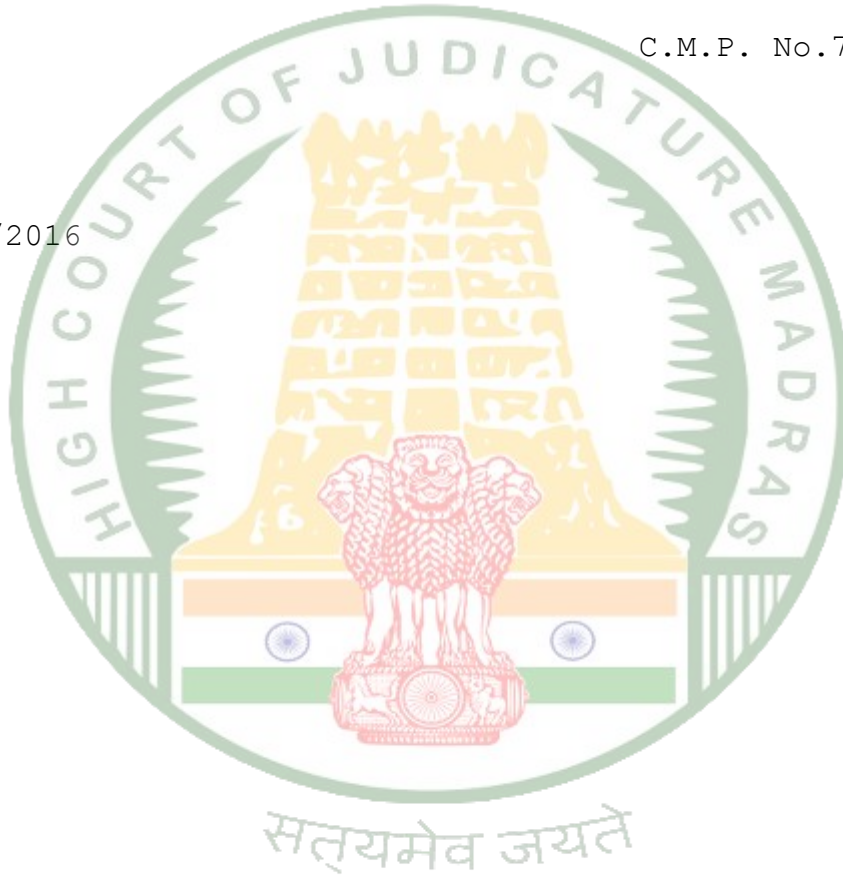
Sub Assistant Registrar

To
The Registrar,
IV Court of Small Causes,
Chennai.

+lcc to Mr.K.J.Sivakumar, Advocate sr.26016

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