

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.950 of 2016

&

C.M.P. No. 7335 of 2016

The Managing Director,  
Tamil Nadu State Transport Corporation  
(Villupuram) Ltd.,  
No.3/137, Salamedu,  
Vazhuthareddy,  
Villupuram-605 602.

..Appellant

Vs.

S.Valarmathi

...Respondent

Prayer: Civil Miscellaneous Appeal as against the order and decretal order dated 14.03.2014 made in M.C.O.P. No.2741 of 2012 on the file of Motor Accidents Claims Tribunal, 1st Additional Subordinate Judge, Cuddalore.

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 decretal order dated 14.03.2014 made in M.C.O.P. No.2741 of 2012 on the file of Motor Accidents Claims Tribunal, 1st Additional Subordinate Judge, Cuddalore.

2. In an accident that took place on 26.06.2012 at about 12.30 p.m., a 50 year old agriculture coolie by name S.Valarmathi, who sustained fracture in her right ankle and right tibia and fibula had approached the Tribunal claiming compensation to the tune of Rs.5,00,000/-.

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     | Permanent Disability at 45%             | Rs. 90,000/-                   |
| 2     | Transport to Hospital                   | Rs. 10,000/-                   |
| 3     | Damage to clothing and article          | Rs. 2,000/-                    |
| 4     | Pain and Sufferings                     | Rs. 45,000/-                   |
| 5     | Loss of amenities and enjoyment in life | Rs. 45,000/-                   |
|       | Total                                   | Rs.2,02,000/-                  |

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

5. The main contention of the learned counsel for the appellant/Corporation is that the Tribunal ought not to have taken the permanent disability at 45% and further contended that the Tribunal ought not to have considered the evidence of PW1 whose evidence has not been corroborated by any other independent witness and in the absence of proof of income and age, the Tribunal has fixed the monthly income of the claimant as Rs.4,500/-, which is 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 26.06.2012, the injured was taken to G.H. Cuddalore from the place of incident and still she is under treatment. The Tribunal, taking note of the injuries sustained viz. fracture in her right ankle and right tibia and fibula, as evident from the evidence of P.W.2 Doctor, who has assessed the disability at 45%, fixed only a sum of Rs.2,000/- per percentage of disability and awarded a sum of Rs.90,000/- under the head Permanent disability. A Division Bench of this Court in the case of New India Assurance Co. Limited vs. V.Kannayiram, reported in 2012(1) TN MAC 611 has granted Rs.3,000/- per percentage of disability. By applying the said judgment, the claimant would be entitled to get more compensation. From the narration of injuries mentioned supra, disability at 45% cannot be said to be excessive and Ex.P5 could not be refuted by any

contra evidence. 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 accrued interest @ 7.5% per annum from the date of claim petition to the credit of M.C.O.P.No.2741 of 2012 on the file of the Motor Accidents Claims Tribunal, 1st Additional Subordinate Judge, Cuddalore, 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.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The 1st Additional Subordinate Judge,  
Motor Accidents Claims Tribunal,  
Cuddalore.

+1cc to Mr.K.J.Sivakumar, Advocate Sr.25699

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srg 25/10/2016