

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.954 of 2016

and

C.M.P.No.7342 of 2016

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

... Appellant/Respondent

vs.

Thiruvengadam ... Respondent/Petitioner

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decreetal order dated 28.03.2014 made in M.C.O.P.No.366 of 2007 on the file of the Motor Accidents Claims Tribunal, (I Additional District Judge), Cuddalore.

For Appellant : Mr.K.J.Sivakumar

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the order and decreetal order dated 20.03.2014 made in M.C.O.P.No.366 of 2007 on the file of the Motor Accidents Claims Tribunal, I Additional District Judge, Cuddalore.

2. Heard the learned counsel for the appellant and perused the materials available on record.

3. On 21.02.2006, when the respondent/claimant was riding his bicycle in Cuddalore - Palur Main Road, near Pillali Thotti from East to West, the driver of the appellant's bus bearing Reg.No.TN 32 N 1290 drove from opposite direction in a rash and negligent manner and dashed against the respondent's bicycle, due to which, the respondent sustained closed head injury with fracture of right temporal bone and also diffuse axonal injury grade III. Immediately, the respondent/claimant was admitted in Government Hospital, Cuddalore and thereafter, at Krishna Hospital, Pondicherry, where he was treated as inpatient from 22.02.2006 to 09.03.2006 and underwent two operations, one on 22.02.2006 External Ventricular Drainage under Local Anesthesia and another operation on 25.02.2006 Elective Tracheotomy under Local Anesthesia and he was kept at intensive care unit ward and thereafter shifted to General Ward till 27.03.2006 and still

he is undergoing treatment as out-patient. Claiming compensation to the tune of Rs.10,00,000/-, the claimant approached the Tribunal. The Tribunal, based on the oral and documentary evidence, awarded a sum of Rs.4,64,200/- as compensation to the claimant. Aggrieved over the same, the Transport Corporation is before this Court.

4. A glance at the award would reveal that the respondent/claimant was aged about 40 years at the time of accident and he was working as sales man at Subasri Vallivilas, Cuddalore. The respondent/claimant underwent two surgeries and he took treatment for more than 17 days in the hospital as inpatient. Therefore, considering the medical bills-Ex.P6, the Tribunal has rightly granted a sum of Rs.2,05,129/- towards medical expenses. Taking note of the evidence of P.W.3, the Tribunal has rightly fixed the monthly income at Rs.6,000/- and rightly adopted multiplier '15', arrived at a compensation under the head 'loss of earning capacity' at Rs.2,59,200/-. Taking note of the fact that the injured suffered multiple fractures, this Court cannot take a different view except accepting the view of the Tribunal and that the compensation arrived by adopting multiplier method in the present case is just and proper. Apart from that, the Tribunal has awarded Rs.10,000/- towards pain and suffering and the same is confirmed.

5. The points raised by the appellant with regard to the quantum of compensation awarded to the injured claimant is that the Tribunal ought not to have adopted the multiplier method for calculation of the head 'loss of earning capacity' and the disability fixed by the Tribunal is on the higher side. Hence, according to the appellant, on these grounds the award has got to be interfered with.

6. The contention of the appellant that the multiplier method adopted is erroneous cannot be accepted for the reason that the claimant underwent two surgeries and he took treatment for more than 17 days in the hospital as inpatient due to the injury sustained in the accident and the Tribunal has awarded only a meager amount under the head pain and suffering. In view of this, I find no reason to interfere with the award of the Tribunal.

7. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The rate of interest granted by the Tribunal is also confirmed.

8. 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.366 of 2007 on the file of the Motor Accident Claims Tribunal, I Additional District 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.

9. 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. There will be no order as to costs in this appeal. Connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS)

/true copy/

Sub Asst. Registrar

To

1.The I Additional District Judge,
(Motor Accidents Claims Tribunal)
Cuddalore.

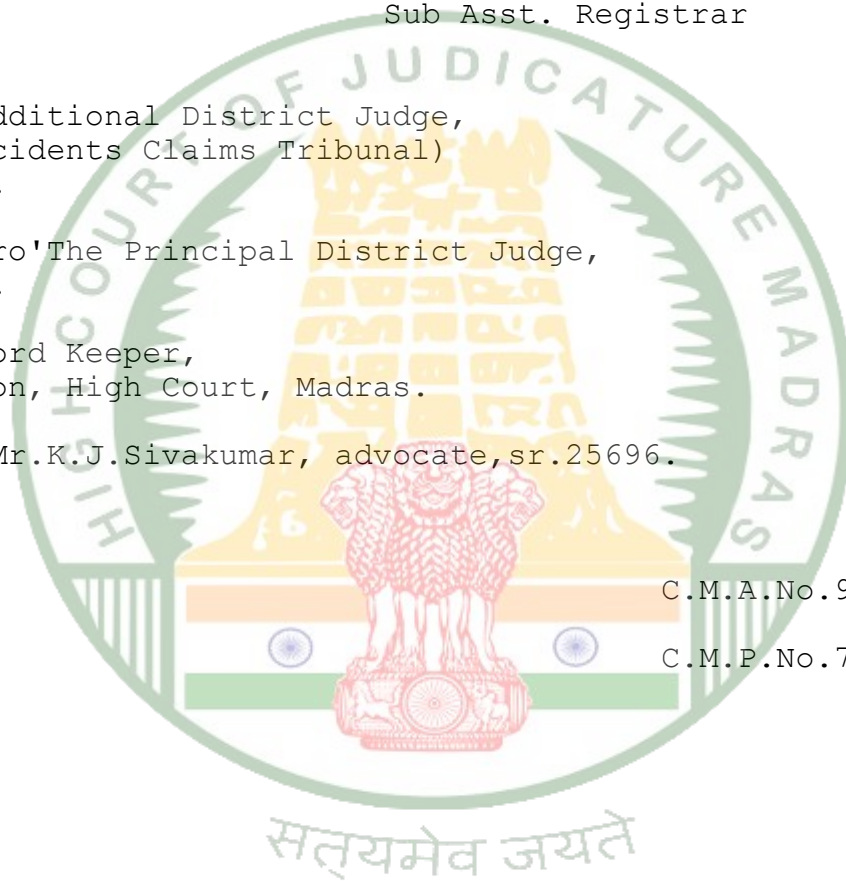
2.-do- thro'The Principal District Judge,
Cuddalore.

3.The Record Keeper,
V.R.section, High Court, Madras.

+1 cc to Mr.K.J.Sivakumar, advocate,sr.25696.

gr(co)
krd 29/8

C.M.A.No.954 of 2016
and
C.M.P.No.7342 of 2016



WEB COPY