

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2016

CORAM:  
THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.2738 of 2014

The Managing Director,  
Tamil Nadu State Transport  
Corporation Division-II,  
Salem, Salem Road,  
Bharathipuram,  
Dharmapuri.

... Appellant

-vs-

Mariammal

.. Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 11.07.2013 made in M.C.O.P.No.628 of 2011 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Dharmapuri.

For Appellant : Mr.D.Venkatachalam

For Respondent : Mr.M.Selvam

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 06.01.2010, a 65 year old lady, viz. Mariammal sustained injuries and fracture in her hip, for which, she filed a claim petition before the Tribunal seeking a sum of Rs.5,00,000/- 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.1,51,040/- as compensation to the claimant with interest at 7.5% per annum. Details of the award are thus:

| Heads              | Amount          |
|--------------------|-----------------|
| Loss of income     | Rs. 1,31,040.00 |
| Pain and Suffering | Rs. 10,000.00   |
| Extra Nourishment  | Rs. 5,000.00    |
| Transportation     | Rs. 5,000.00    |
| Total              | Rs. 1,51,040.00 |

4. Heard the learned counsel on either side and gone through the material documents available on record.

5. Learned counsel for the appellant/Transport Corporation contended that the Tribunal erred in adopting multiplier method to calculate the loss of income of the claimant. It is also his contention that the Tribunal ought not to have fixed future prospects of the claimant while computing compensation towards loss of income, when the claimant is aged 65 years.

6. According to the claimant, at the time of accident, she was working as a coolie, earning a sum of Rs.5,000/- per month. However, the Tribunal fixed a sum of Rs.3,000/- as her notional monthly income. Further, relying on the ratio laid down in Santosh Devi -vs- National Insurance Co. Ltd. (2012 (6) SCC 421), the Tribunal fixed 30% of the monthly income towards her future prospects, and, applying the multiplier of 7, arrived at a sum of Rs.1,31,040/- as compensation towards 'loss of income'. As far as fixing of future prospects to the income of the claimant is concerned, this Court is of the view that the Tribunal has done so only as per the ratio laid down by the Apex Court. Expectation of life has increased nowadays and even assuming that future prospects ought not to have been calculated in the case of the claimant herein, the Tribunal has not awarded any amount towards 'future medical expenses', though the disability assessed on her is 40%. Also, no amount is awarded towards 'mental agony'. In such view of the matter, this Court is not inclined to interfere with the quantum of compensation awarded by the Tribunal.

7. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation, i.e. a sum of Rs.1,51,040/- (Rupees One Lakh Fifty One Thousand Forty only) and the rate of interest at 7.5% 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.628 of 2011 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Dharmapuri 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 2014 is closed.

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

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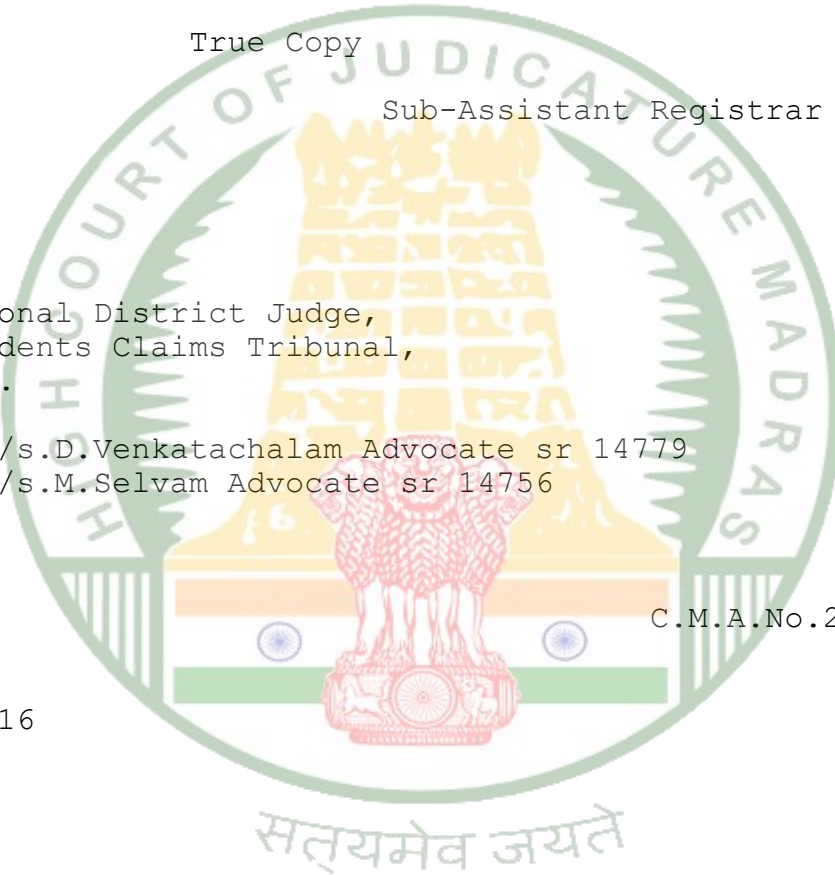
To :

The Additional District Judge,  
Motor Accidents Claims Tribunal,  
Dharmapuri.

+1 cc to M/s.D.Venkatachalam Advocate sr 14779  
+1 cc to M/s.M.Selvam Advocate sr 14756

C.M.A.No.2738 of 2014

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