

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.3435 of 2014

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd. (Salem),
No.12, Ramakrishna Road,
Salem.

... Appellant/Respondent

Vs.

Murugan

.. Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 25.09.2013 made in M.C.O.P No.1530 of 2011 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge, Cuddalore.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The Transport Corporation has come up with this appeal challenging the quantum of compensation awarded by the Tribunal.

2. In an accident which occurred on 28.02.2010, the claimant sustained multiple grievous injuries and immediately, he was admitted in Government Hospital, Tirukovilur for treatment. Thereafter, he was referred to Government General Hospital, Chennai for better treatment. He filed a Claim Petition before the Tribunal seeking a sum of Rs.10,00,000/- as compensation. After analyzing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.3,25,000/- as compensation, under the following heads:

Heads	Amount
Loss of income	Rs.2,70,000.00
Pain and Suffering	Rs. 20,000.00
Loss of amenities	Rs. 10,000.00
Extra nourishment	Rs. 10,000.00
Transport to Hospital	Rs. 10,000.00
Other incidental expenses	Rs. 5,000.00
Total	Rs.3,25,000.00

3. It is the contention of the learned counsel appearing for the appellant/Transport Corporation that the Tribunal ought not to have adopted multiplier method to calculate the loss of income of the injured and that the disability sustained by the claimant would no way affect his future earning capacity.

4. On a perusal of the records, it is seen that the claimant has sustained fracture in right tibia and right knee. Since the claimant is a mason, the disability sustained by him will certainly affect his avocation and there will be loss of earning to him. Though the Doctor who examined the claimant assessed his permanent disability at 85%, the Tribunal fixed the claimant's disability only at 30%. Fixing a sum of Rs.4,500/- as the notional income of the claimant and applying the multiplier of '15', the Tribunal awarded a sum of Rs.2,70,000/- as compensation towards "Loss of income". It is seen that the claimant was aged 31 years at the time of accident. As per the ratio laid down by the Supreme Court in the case of Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121, the correct multiplier to be adopted to the age of the claimant herein is '16'. Therefore, if '16' is adopted as multiplier, then the compensation towards 'loss of income' will be enhanced. Hence, this Court is not inclined to interfere with the compensation awarded under the head 'loss of income'. Also, taking note of the injuries sustained by the claimant, this Court finds that the compensation awarded under other heads are just and reasonable and the same are confirmed.

5. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation 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.1530 of 2011 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge, Cuddalore 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.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

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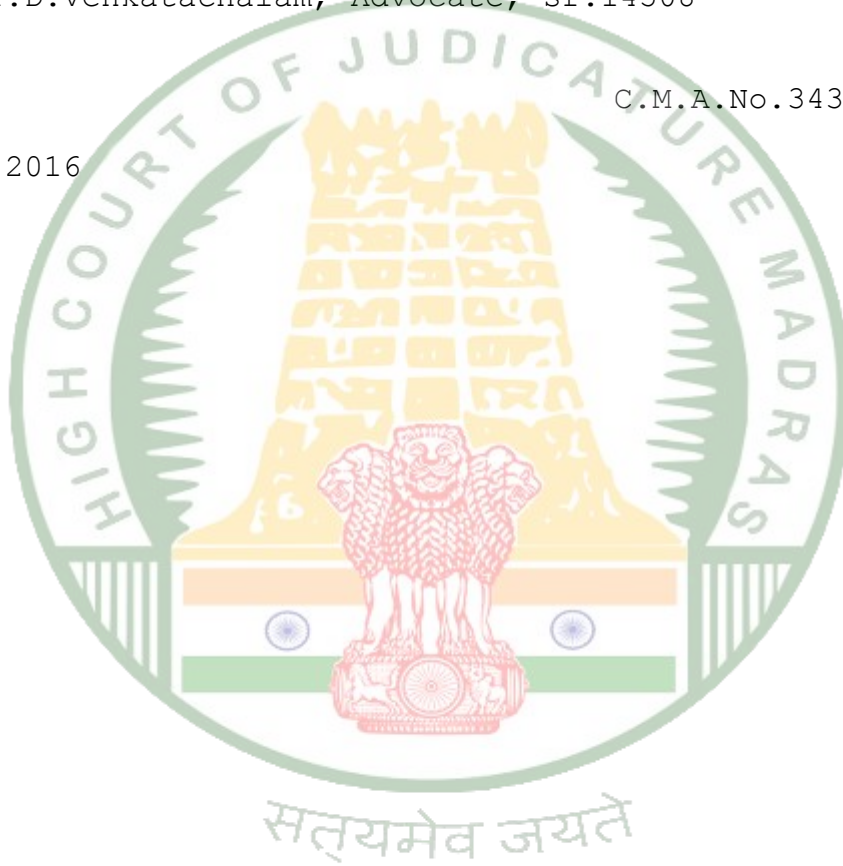
To :
The Special Subordinate Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

Copy to:
The Section Officer,
VR Section,
High Court, Madras.

1 cc to Mr.D.Venkatachalam, Advocate, sr.14508

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kra 14.09.2016



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