

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.2577 of 2013

and

M.P. No. 1 of 2013

The Managing Director,
Tamil Nadu State Transportation
Corporation Ltd.,
Salem.

... Appellant/Respondent

Vs.

Kumar

.. Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 31.10.2012 made in M.C.O.P No.498 of 2010 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Namakkal.

For Appellant : Mr. D. Venkatachalam

For Respondent : Mr. Ma. P. Thangavel

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. On 10.08.2010, while the injured claimant was about to get down from the appellant Transport Corporation bus, in Iyermedu bus stop, on the Namakkal Thuraiyur Main Road, the driver of the bus moved the bus in a rash and negligent manner, whereby the claimant fell down from the bus and sustained fractures on his hip and thigh and also multiple injuries all over his body. Hence, he filed a Claim Petition before the Tribunal seeking a sum of Rs.7,00,000/- as compensation. After analyzing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.4,50,000/- as compensation, under the following heads:

Sl. No.	Heads	Amount
1	For injuries	Rs. 11,000.00
2	Loss of earning during treatment	Rs. 48,000.00
3	Transport expenses	Rs. 6,000.00
4	Permanent Disability	Rs. 80,000.00
5	Loss of Future earning capacity	Rs.1,20,000.00

Sl. No.	Heads	Amount
6	Pain and Sufferings	Rs. 43,000.00
7	Medical Expenses	Rs. 7,000.00
8	Extra Nourishment	Rs. 35,000.00
	Total	Rs.4,50,000.00

3. Learned counsel appearing for the appellant/Transport Corporation would mainly contend that the Tribunal has erred in awarding compensation towards permanent disability and injuries, inspite of granting compensation towards loss of future earning capacity and thus has granted compensation for injuries under three different heads. He further contended that the Tribunal has not considered the deposition of the driver of the appellant Corporation bus RW-1 and the corroborated witness of RW-2, denying the accident.

4. On the other hand, learned counsel appearing for the respondent/claimant would submit that this is a fit case for application of multiplier method as the claimant had sustained fracture on both his thighs, which has been mal-united and that he is not able to continue his work in the Textile shop. The Doctor has deposed that the injured had already suffered polio attack and due to the fractures and mal-union of bones on the thighs, he is unable to walk independently and has hence fixed the disability at 80%, which has also been accepted by the Tribunal. At the time of accident, the claimant was 25 years old and based on the documents and evidences, the Tribunal has passed the award and so pleaded for dismissal of the Appeal.

5. A perusal of the records would show that the injured claimant was aged 25 years and was working in a Textile shop, at the time of accident. Moreover, he has taken treatment in three hospitals, has undergone surgery in both the thighs and plates were fixed. But, it is evidenced through exhibits that the bones are mal-united and since he was attacked by polio in his young age, there is shrinkage of the bones on the legs and femur. Taking note of the age, disability and avocation, the Tribunal has awarded a just and reasonable compensation, which does not warrant any interference.

6. 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. The appellant/Transport Corporation is directed to deposit the entire award amount, together with accrued interest, less the amount already deposited, to the credit of M.C.O.P.No.498 of 2010 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Namakkal, within a period of six 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, the M.P. is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To :

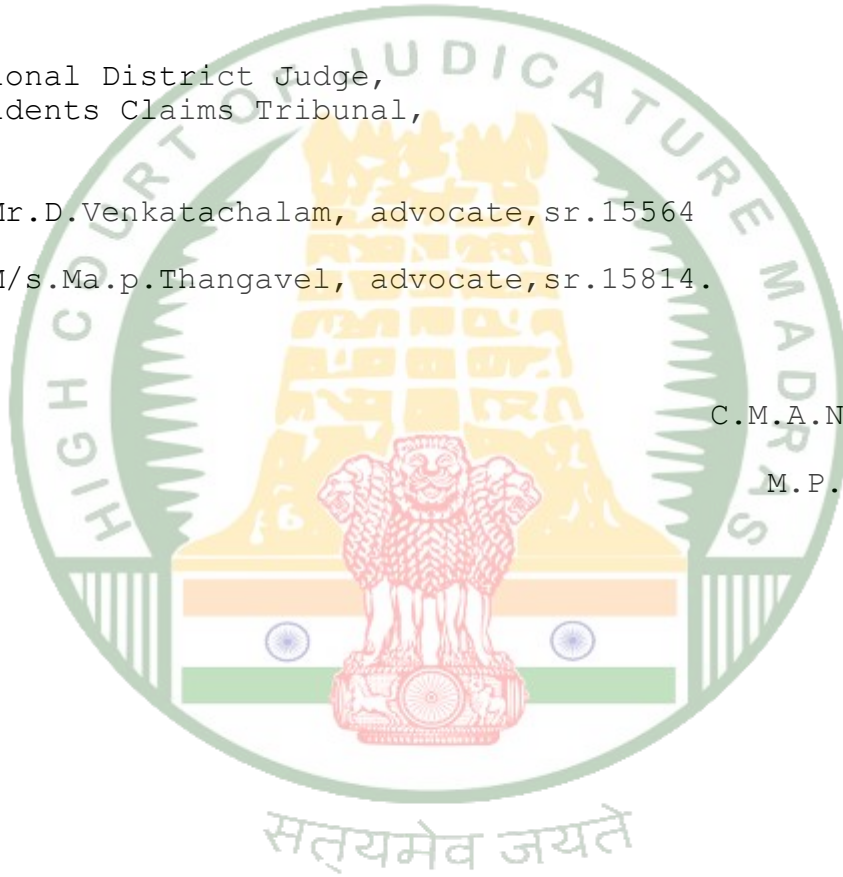
The Additional District Judge,
Motor Accidents Claims Tribunal,
Namakkal.

+1 cc to Mr.D.Venkatachalam, advocate,sr.15564

+1 cc to M/s.Ma.p.Thangavel, advocate,sr.15814.

rsi(co)
krd 5/8

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