

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2017

CORAM:

THE HONOURABLE MRS.JUSTICE.PUSHPA SATHYANARAYANA

C.M.A.No.1110 of 2017

and

C.M.P.No.5503 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.
Kancheepuram Appellant/1st Respondent

Vs.

1.Arokiyamary

2.K.Sankar Respondents/Petitioners/
2nd Respondent

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award and decree dated 01.04.2011 made in M.C.O.P.No.65 of 2009 on the file of the Motor Accident Claims Tribunal (Sub Court) Maduranthakam.

For Petitioner : M/s.P.Paramasiva Doss

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal, in M.C.O.P.No.65 of 2009, on 01.04.2011, the Tamil Nadu State Transport Corporation Ltd. has come forward with this Civil Miscellaneous Appeal.

2. On 01.12.2008, the first respondent namely Mrs.Arokiya Mary, who had travelled in the vehicle of the appellant, bearing Registration No.TN 21 N 0861, which was driving by the second respondent, met with an accident, due to which she sustained injuries on her both legs as well as all over the body. As a result of accident, a part of organ, below the right leg of Mrs.Arokiyamary was removed and hence, she filed a claim petition in M.C.O.P.No.65 of 2009, seeking compensation for a sum of Rs.8,00,000/-.

3. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.5,07,812/-, with interest @ 7.5% per annum from the date of petition till the date of deposit. The break-up details of the same are as follows:

Permanent Disability	-	75,000
Pain and Sufferings	-	75,000
Medical Expenses	-	2,47,812
Transport Expenses	-	5,000
Loss of Income	-	1,00,000
Nutrition	-	5,000
Total		5,07,812

4. The learned counsel for the appellant submitted that, the accident was not occurred due to negligent and rash driving of the first appellant, but as the claimant was tried to get down from the vehicle while running, she sustained injuries and as such, the appellant is not liable to pay such award amount as compensation. The learned counsel for the appellant further submitted that the award fixed towards pain and sufferings, loss of earning are also on the higher side and the same have to be reduced.

5. A perusal of the award passed by the Claims Tribunal would go to show that on the basis of Ex.P2, Ex.P4, discharge summaries and Ex.P3, document for taking treatment as outpatient and also on considering the evidence of Pw2, Dr.Kannan Isaq, the Tribunal has awarded a sum of Rs.75,000/- under the head of permanent disability and a sum of Rs.75,000/- towards pain and sufferings. Likewise, on considering the Ex.P8 to Ex.P14, which are the medical bills, and on considering the percentage of permanent disability, the Tribunal awarded a sum of Rs.2,47,812 for her medical expenses and a sum of Rs.1,00,000/- towards loss of income. The Tribunal also awarded a sum of Rs.5,000/- towards transport and a sum of Rs.5,000/- towards nutrition. The fixation of amounts under the heads as above, are not excessive. Further, based on the evidence of P.W.1, the Tribunal has rightly fixed the negligence on the part of the driver of the appellant Corporation. Hence, there is no reason to interfere with the Judgment and decree of the Claims Tribunal dated 01.04.2011 and accordingly, the appeal is liable to be dismissed.

6. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the Award and decree of the Claims Tribunal, in M.C.O.P.No.65 of 2009 dated 1.04.2011. The

appellant is directed to deposit the Award amount along with interest into the credit of M.C.O.P.No.65 of 2009 within a period of four weeks from the date of receipt of copy of this order, if not deposited already. On such deposit, the claimant is permitted to withdraw the same. No costs. Connected MP is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mst

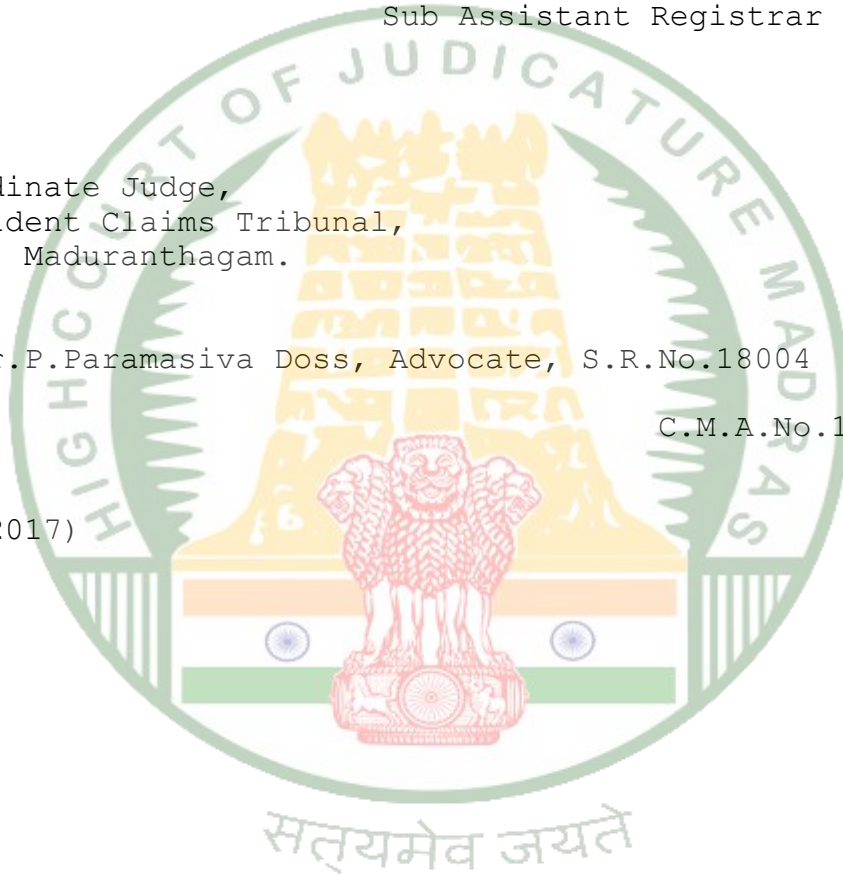
To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Sub Court, Maduranthagam.

+1cc to Mr.P.Paramasiva Doss, Advocate, S.R.No.18004

C.M.A.No.1110 of 2017

RJ(CO)
CA(17/04/2017)



WEB COPY