

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2017

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THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 1257 of 2017

&

C.M.P. No. 6455 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation(s) Ltd.,
Villupuram.

...Appellant/Respondent

Vs.

Ramalingam

..Respondent/Claimant

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 21.01.2016 passed in M.C.O.P. No. 178 of 2013 on the file of Motor Accidents Claims Tribunal (II Additional District and Sessions Judge, Chidambaram).

For Appellant :: Mr.P. Paramasivados

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Transport Corporation as against the award of Rs. 11,68,302/-, passed by the Motor Accidents Claims Tribunal (II Additional District and Sessions Judge, Chidambaram), in M.C.O.P. No. 178 of 2013, by order dated 21.01.2016, for the disability sustained by the respondent/claimant, in the accident, which occurred on 15.05.2013, when the bus bearing registraton No. TN-32-N-2952, belonging to the appellant Transport Corporation, in which the respondent/claimant, was the Conductor, dashed against a container lorry, which was going ahead, due to the rash and negligent driving by the driver of the bus.

2. Heard Mr.P. Paramasivados, learned counsel for the appellant.

3. The Tribunal, based on the evidence of P.W.1, who is the victim and also the conductor of the appellant Transport Corporation bus, which met with the accident and filing of First Information Report, Ex-P1, as against the driver of the appellant Transport Corporation, rightly found that the accident had occurred because of the rash and negligent driving of the

bus. Further, to contradict P.W.1's evidence, there was no contra evidence adduced by the appellant Transport Corporation. Therefore, the finding rendered by the Tribunal, with regard to the negligence aspect, cannot be found fault with.

4. Based on the evidence of P.W.2, Doctor and medical records, marked as Exs-P6 to P10, P12 to P16, the Tribunal fixed the disability at 84%, as the respondent/claimant sustained fracture on both legs, resulting in amputation of his left leg below knee. The said determination of disability at 84% is based on medical evidence and the same is confirmed. However, the Tribunal has awarded only Rs.1,68,000/- towards "Disability" @ Rs.2000/- per percentage of disability and the same is very low. Therefore, a sum of Rs.3000/- per percentage of disability is granted and totally, a sum of Rs.2,52,000/- is awarded under the said head.

5. As far as the amount of Rs.1 lakh awarded towards "Pain and Suffering" is concerned, it is very low when compared to the injuries sustained by the claimant. The claimant had suffered fracture on both legs, ultimately resulting in amputation of his left leg below knee and therefore, the amount awarded towards "Pain and Suffering" is enhanced to Rs.2 lakhs. The sum of Rs.1,56,000/- awarded towards "Medical Expenses" is based on medical records and the same is confirmed. So also, the amounts awarded towards "Attender charges for 3 months", "Future Attendance" and "Future Medical Expenses" are reasonable and hence, confirmed.

6. As far as the sum of Rs.2,91,302/- awarded towards "Loss of Income" is concerned, the same has to be set aside as there was no loss of income and the claimant is still in employment. Accordingly, the amount awarded under the said head is set aside. The sum of Rs.25,000/- awarded towards "Nutritious Food" is very low and the same is enhanced to Rs.50,000/-. Similarly, under the head "Loss of Amenities", the amount awarded, being too low, is enhanced to Rs. 1 lakh. Since no amount was awarded towards "Transportation Expenses", a sum of Rs.30,000/- is awarded under the said head. Therefore, by setting aside the amount of Rs.2,91,302/- towards "Loss of Income", the said amount has been adjusted under other heads, as stated above. The sum of Rs.10,000/- awarded towards "Ambulance Charges" is enhanced to Rs.12,500/-. The compensation payable to the claimant, under various heads, are detailed as hereunder:

Disability	::	Rs.2,52,000/-
Pain and Suffering	::	Rs.2,00,000/-
Medical Expenses	::	Rs.1,56,000/-
Loss of Amenities	::	Rs.1,00,000/-
Nutritious Food	::	Rs. 50,000/-
Future Medical Expenses	::	Rs.3,00,000/-

Transport Expenses	::	Rs. 30,000/-
Ambulance Charges	::	Rs. 12,500/-
Attender for 3 months	::	Rs. 18,000/-
Future Attendance	::	Rs. 50,000/-
Total	::	Rs.11,68,500/-

Hence, the award of Rs.11,68,302/- granted by the Tribunal is rounded off to Rs.11,68,500/-together with interest @ 7.5% per annum.

7. The appellant Transport Corporation is directed to deposit the entire award amount, with interest and costs, before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order, failing which the Chairman cum Managing Director as well as Financial Advisor cum Chief Accounts Officer of the appellant Transport Corporation shall appear before this Court on 23rd June, 2017. On such deposit being made, the Tribunal is directed to transfer the award amount by RTGS to the account of the respondent, within a period of two weeks thereafter, after getting the details of his bank account.

8. In the result, the Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal to the tune of Rs.11,68,302/- is rounded off to Rs.11,68,500/- together with interest @ 7.5% per annum. No costs. Connected C.M.P. is closed.

9. For reporting compliance, call the matter on 23.06.2017.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

nv

To

1. The MACT (II Addl. District Judge,) Chidambaram.
2. The Chairman-cum-managing Director, Tamil nadu State Transport Corporation Ltd, Villupuram
3. The Financial Advicer -cum-Chief Accounts Officer, Tamil nadu State Transport Corporation Ltd, Villupuram

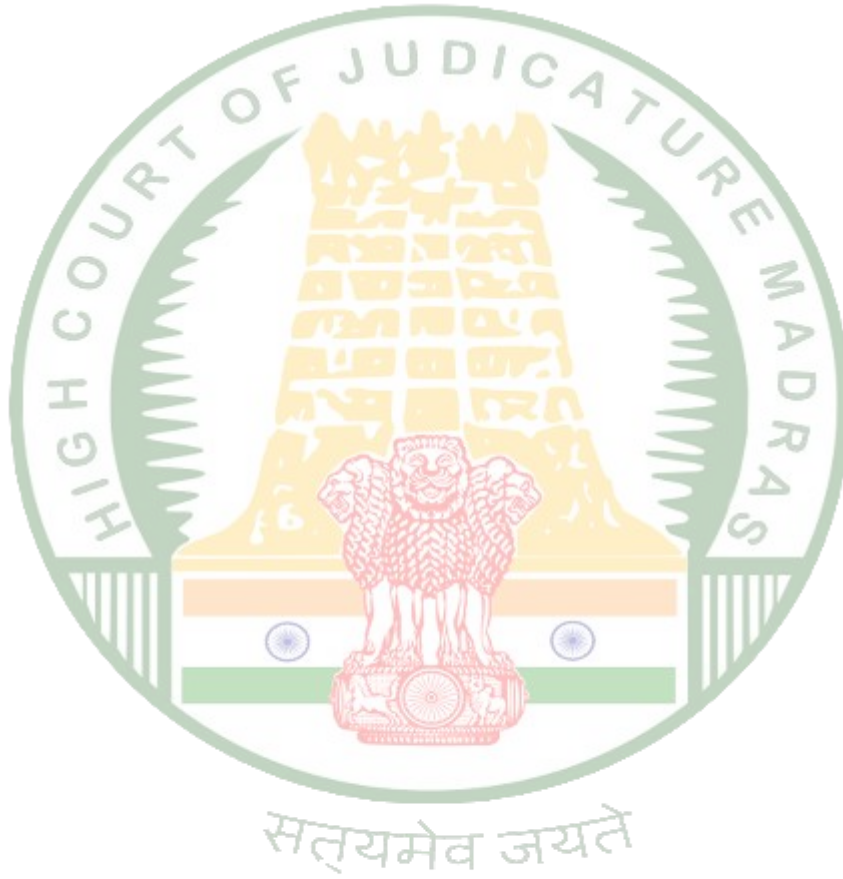
Copy To:

The Section Officer,
Judicial section,
High Court, Madras.

+1cc to Mr.P.Paramasiva Doss, Advocate in Sr.No.22631

C.M.A. No. 1257 of 2017

KGK (CO)
NR(16/06/2017)



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