

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.141 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Salem. Appellant/Respondent

Vs.
Lakshmi ... Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 11.01.2013 made in M.C.O.P.No.174 of 2012 on the file of the Motor Accidents Claims Tribunal, III Additional District & Sessions Court, Kallakurichi.

For Appellant : Mr.P.Paramasiva Doss

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. This is a case of injury. According to the claimant viz. Lakshmi, on 02.02.2007, about 5.20 p.m., when she was travelling from Villupuram to Kallakurichi in a bus bearing Reg. No.TN 30/N-0239 belonging to the appellant/Transport Corporation, on Pennai River bridge, the driver of the Bus drove the vehicle in a rash and negligent manner and dashed against a TATA Indica car bearing Registration No.PY.01/Y-2440, coming in the opposite direction, due to which, she sustained grievous injuries all over the body. She filed a claim petition before the Tribunal seeking a sum of Rs.5,00,000/- as compensation for the injuries suffered by her.

3. After analyzing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.2,45,000/- as compensation under the following heads:

Heads	Amount
Loss of earning	Rs. 2,34,000.00
Pain and Suffering	Rs. 11,000.00
Total	Rs. 2,45,000.00

4. It is the contention of the learned counsel appearing for the appellant/Transport Corporation that when there was no proof with regard to the computation of loss caused due to permanent disability, the Tribunal ought not to have fixed 60% as her permanent disability.

5. According to the injured claimant, she was eking out her livelihood by doing agricultural activities and she claims to have been earning Rs.6,000/- per month out of it. Relying on the Discharge Summary of the claimant, the Tribunal fixed her age as 48 years at the time of accident. Since there was no proof in support of her income, the Tribunal took Rs.2,500/- as her monthly income and applying the multiplier of '13', arrived at a sum of Rs.3,90,000/- (Rs.2,500/- x 12 x '13') and applying 60% permanent disability of the claimant on the said sum, a sum of Rs.2,34,000/- (Rs.3,90,000/- x 60%) is arrived as the compensation towards 'loss of earning'.

6. In my view, the monthly income of the claimant fixed as Rs.2,500/- is no way excessive. It is seen from the records that the claimant has suffered fracture of 4 and 5 rib bones and her Brachial Plexus has also been injured. Further, her right hand movements are restricted considerably and she also underwent treatment for damage of nerves on the right side. Hence, this Court finds no error in the fixation of permanent disability of the claimant at 60% and is of the view that the compensation awarded towards 'loss of earning' is not excessive. Also, taking into account the injuries suffered by the claimant, this Court feels that a sum of Rs.11,000/- awarded towards 'Pain and Suffering' is not on the higher side.

7. In view of the above, this Court confirms the quantum of compensation of Rs.2,45,000/- (Rupees Two Lakhs Forty Five Thousand only) awarded by the Tribunal along with interest at 7.5% per annum. 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.174 of 2012 on the file of the Motor Accidents Claims Tribunal, III Additional District Sessions Court, Kallakurichi, within a period of six weeks from the date of receipt of a copy of this order.

8. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016, scrupulously.

This Civil Miscellaneous Appeal is dismissed with the above direction. No costs. Consequently, connected C.M.P.No.963 of 2017 is closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

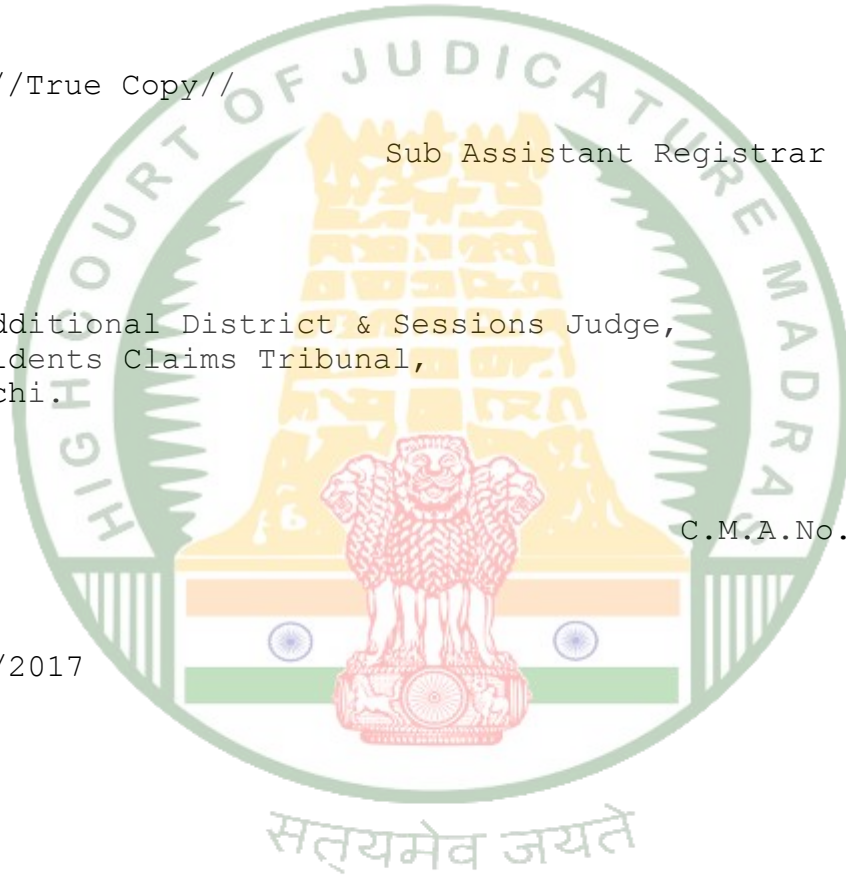
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To :

The III Additional District & Sessions Judge,
Motor Accidents Claims Tribunal,
Kallakurichi.

C.M.A.No.141 of 2017

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