

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.237 of 2015
and
M.P.No.1 of 2015 and
C.M.P.No.19222 of 201

Tamil Nadu State Transport Corporation,
(Vellore Division II) Rep.by,
Its Managing Director, Vellore.
.... Appellant

Vs.

A.Chandru (Minor),
declared as major as per order in M.P.No.3855/2013
dated 12.12.2013 on the file of III Small Causes court
Chennai

... Respondent/Petitioner

Prayer : Appeal filed under Section 173 of the Motor Vehicles
Act, 1988 against the judgment and decree dated 07-02-2014 made
in MCOP.No.4127 of 2005 on the file of the Motor Accident Claims
Tribunal, III Small Causes Court, Chennai.

For Appellant : M/s.P.Paramasiva Doss

For Respondents : Mr.N.M.Muthurajan

J U D G M E N T

Challenging the quantum of compensation awarded by the
Claims Tribunal, in M.C.O.P.No.4127 of 2005, on 07.02.2014, the
Transport Corporation has come forward with this Civil
Miscellaneous Appeal.

2. The claimant A.Chandru who was aged 12 years, a
seventh standard student, met with an accident that occurred on
02.01.2005. Due to which, he sustained crush injury in the left
leg, avulsion injury from below knee to dorsum of left leg and
fracture of left ankle. Hence, he filed a claim petition in

M.C.O.P.No.4127 of 2005, seeking compensation for a sum of Rs.7,00,000/-.

3. The Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs.2,18,000/-, 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:

Loss of income	-	Rs.30,000/-
Transport to Hospital	-	Rs.10,000/-
Extra nourishment	-	Rs.10,000/-
Damage to clothing	-	Rs. 1,000/-
Medical Expenses	-	Rs.30,000/-
Attender charges	-	Rs. 7,000/-
Loss of amenities of life	-	Rs.15,000/-
Pain and sufferings	-	Rs.35,000/-
Permanent disability	-	Rs.80,000/-
		Rs. 2,18,000/-

4. The learned counsel for the appellant submitted that the compensation awarded towards disability, Pain and suffering, Transportation is on the higher side. He would further submit that the Claims Tribunal has not accepted the evidence of the driver.

5. A perusal of the award passed by the Claims Tribunal would go to show that P.W.2-doctor- who examined the claimant assessed disability @ 40%. He has also issued Ex.P9. The tribunal considering the same has fixed the disability @ 30% and by taking Rs.2,000/- per percentage a sum of Rs.80,000/- was awarded towards permanent disability, which is not excessive.

6. Considering the age of the claimant, nature of injury and the period of treatment undergone by the claimant, a sum of Rs.35,000/- is awarded under the head Pain and Sufferings, a sum of Rs.10,000/- towards extra nourishment, a sum of Rs.15,000/- towards loss of amenities, a sum of Rs.10,000/- towards transport charges, which is not excessive. The tribunal based on the evidence of P.W.1 and Ex.P1 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 07.02.2014.

7. In the result, this Civil Miscellaneous Appeal is

dismissed, confirming the Judgment and decree of the Claims Tribunal, in M.C.O.P.No.4217 of 2005 dated 07.02.2014. The Transport Corporation is directed to deposit the entire compensation within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is permitted to withdraw. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

arr

To

1.The Motor Accident Claims Tribunal,
III Small Causes Court, Chennai.

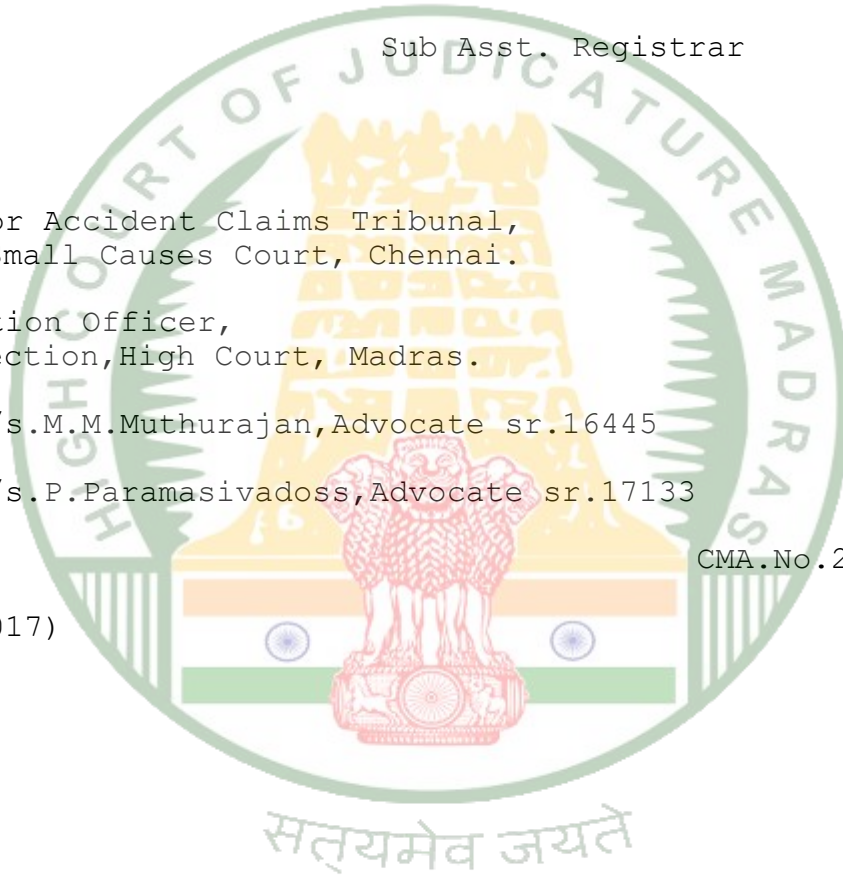
2.The Section Officer,
VR Section,High Court, Madras.

+1cc to M/s.M.M.Muthurajan,Advocate sr.16445

+1cc to M/s.P.Paramasivadoss,Advocate sr.17133

CMA.No.237 of 2015

gm1 (co)
ss(20/4/2017)



WEB COPY