

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.535 of 2015
and
M.P.No.1 of 2015

The Managing Director,
Tamil Nadu Transport Corporation Ltd.,
(VPM Ltd), T.V.Malai Region,
Thiruvannamalai ... Appellant/3rd Respondent

Vs.

1.R.Radhakrishnan 1st Respondent/Petitioner
2. K.Soundararajan
3. The Divisional Manager,
The Oriental Insurance Company Limited,
Jambu bala complex, Arcot road,
Vellore-632 004 ... Respondents/Respondents 1 & 2
2 & 3 Respondents

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act 59 of 1988 against the judgment and decree dated 02.08.2012 made in M.C.O.P.No.32 of 2009 on the file of the Motor Accident Claims Tribunal, Sub Court, Ranipet.

For Appellant : Mr.P.Paramasivados

J U D G M E N T

The Claimant Mr.R.Radhakrishnan, aged 40 years, an iron merchant, earning a sum of Rs.6,000/- per month, met with an accident on 30.12.2008. Due to which he sustained grievous injuries. Hence, he filed a claim petition in M.C.O.P.No.32 of 2009, before the Motor Accidents Claims Tribunal, Subordinate Judge, Ranipet, seeking a sum of Rs.2,00,000/- as compensation.

2. The Claims Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs.1,07,000/- as compensation, 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 under:

Loss of earnings	-	Rs. 5,000/-
Extra Nourishment	-	Rs. 2,000/-
Pain and sufferings	-	Rs.20,000/-
permanent disability	-	Rs.45,000/- (30x1500)
Loss of earning power	-	Rs.25,000/-

Partial loss of earnings and Transportation	-	Rs.10,000/-
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Rs.1,07,000/-

3. The learned counsel for the appellant would submit that the Claims Tribunal has awarded a sum of Rs.25,000/- towards loss of earning power, which is on the higher side. He would further submit that the Tribunal has erred in fixing the negligence on the part of the driver of the Transport Corporation. He would further submit that the Tribunal has not considered the counter affidavit filed by the transport Corporation. It is his further submission that the amount of compensation awarded is excessive and the same has to be reduced.

4. A perusal of the award passed by the Claims Tribunal would go to show that the tribunal on consideration of oral and documentary evidence has rightly fixed the negligence on the driver of the Corporation bus. Though the claimant has claimed a sum of Rs.30,000/- towards loss of earnings, the tribunal has fixed only a sum Rs.5,000/- towards loss of earnings and only a sum of Rs.2,000/- towards extra nourishment which is not excessive. P.W.2-Doctor who examined the claimant has assessed the disability @ 30% and he also issued Ex.P6-Disability certificate. The tribunal has correctly taken the disability fixed by the doctor and by fixing 1500 per percentage of disability has awarded a sum of Rs.45000(30x1500) towards disability, which is correct. The amount awarded towards Partial loss of earnings and Transportation are also not on the higher side. This Court does not find any reason to interfere the award passed by the Claims Tribunal.

6. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the Judgment and decree of the Claims Tribunal, dated 02.08.2012, in M.C.O.P.No.32 of 2009. The

appellant-Transport Corporation is directed to deposit the entire award amount along with interest, 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 the same. No costs.

Sd/-
Assistant Registrar

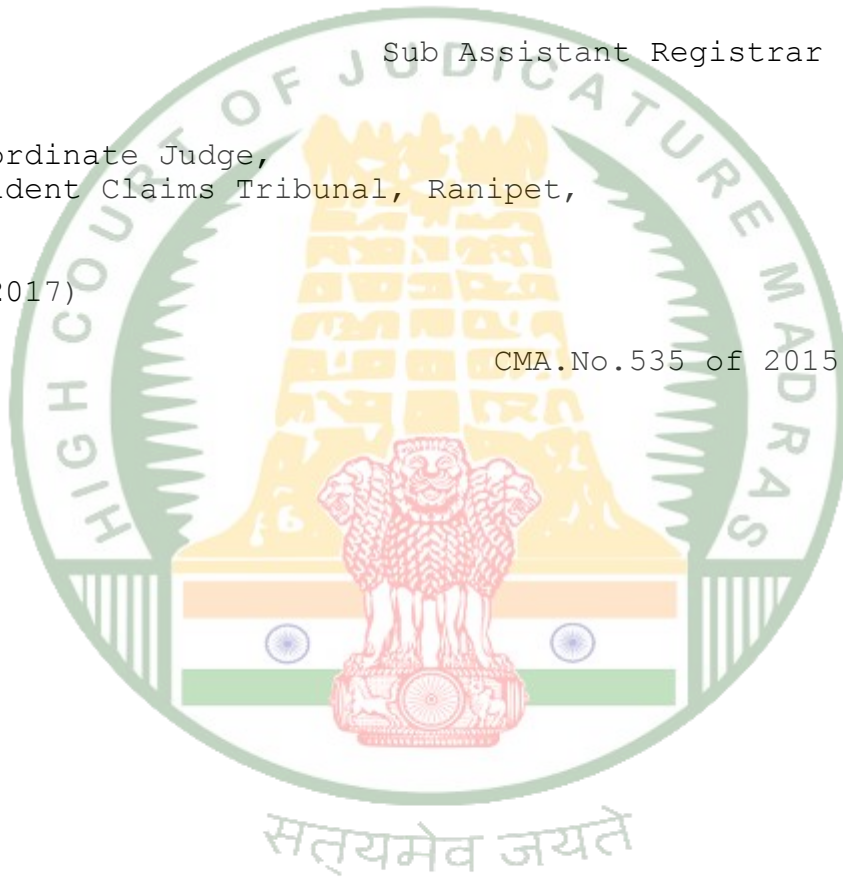
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Sub Assistant Registrar

1 The Subordinate Judge,
Motor Accident Claims Tribunal, Ranipet,

kj (CO)
md(28/04/2017)

CMA.No.535 of 2015



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