

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2017

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

CMA No.207 of 2017
and
C.M.P.No.1409 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation
Limited, Kancheepuram. ... Appellant/Respondent

Vs

Krishnan ... Respondent/Petitioner

Appeal filed under section 173 of the Motor Vehicle Act against the judgment and decree dated 28.11.2011 made in M.C.O.P.No.79 of 2007 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Thiruvannamalai and to set aside the same.

For Appellant : Mr.S.Sairaman

J U D G M E N T

The Tamil Nadu State Transport Corporation is the appellant herein.

2. The claimant/respondent, who sustained fracture on his right leg and also sustained grievous injuries all over his body in the accident that took place on 24.08.2006, has filed a claim petition before the Court below claiming a compensation to a sum of Rs.2,00,000/-. The Tribunal, on appreciation of oral and documentary evidence, passed an award for a sum of Rs.3,15,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. Questioning the same, the present appeal has been filed by the Transport Corporation.

3. Heard the learned counsel for the appellant-Transport Corporation.

4. The learned counsel appearing for the appellant/Transport Corporation states that they are mainly aggrieved by the quantum

of compensation determined by the Tribunal as well as the findings rendered by the Tribunal by fixing the negligence on the part of the driver of the bus owned by the Transport Corporation. He further states that while awarding compensation under the head of loss of income, the tribunal has failed to note that the claimant has not produced any evidence to show his salary. Apart from that, the Tribunal has fixed the permanent disability at 50% which is on the higher side. The learned Counsel also submits that the accident is due to the rash and negligent driving of the driver of the Tipper lorry which hit the bus from back side and not the driver of the Transport Corporation Bus. Therefore, the award of the tribunal has to be set aside.

5. On a perusal of the award passed by the Court below, it is seen that after taking into consideration that the claimant has suffered 60% disability, the lower court has taken the same as 50% and awarded Rs.50,000/- (50 x 1000) towards permanent disability which is fair and reasonable. That apart, the claimant has undergone operation on his right leg thrice for the fracture sustained in the said accident. Further, the Tribunal has awarded Rs.40,000/- towards loss of income for the period of leave of 200 days during which period he was treated as inpatient and therefore, the amount awarded under the said head is also just and reasonable. Likewise, the compensation awarded under other heads, namely, for pain and suffering Rs.75,000/-, for Extra Nourishment and Attendant Charges Rs.1,50,000/- are found to be just and reasonable. Therefore, this Court finds no reasons to interfere with the said well founded award of the court below.

6. In the result, the Civil Miscellaneous Appeal is dismissed by confirming the award of the Chief Judicial Magistrate, Motor Accidents Claims Tribunal, Thiruvannamalai. The appellant-Transport Corporation is directed to deposit the entire award amount of Rs.3,15,000/- with interest at 7.5% p.a. within a period of four weeks from the date of receipt of a copy of this order, if not deposited already. The claimant/respondent is also permitted to withdraw the entire award amount with interest. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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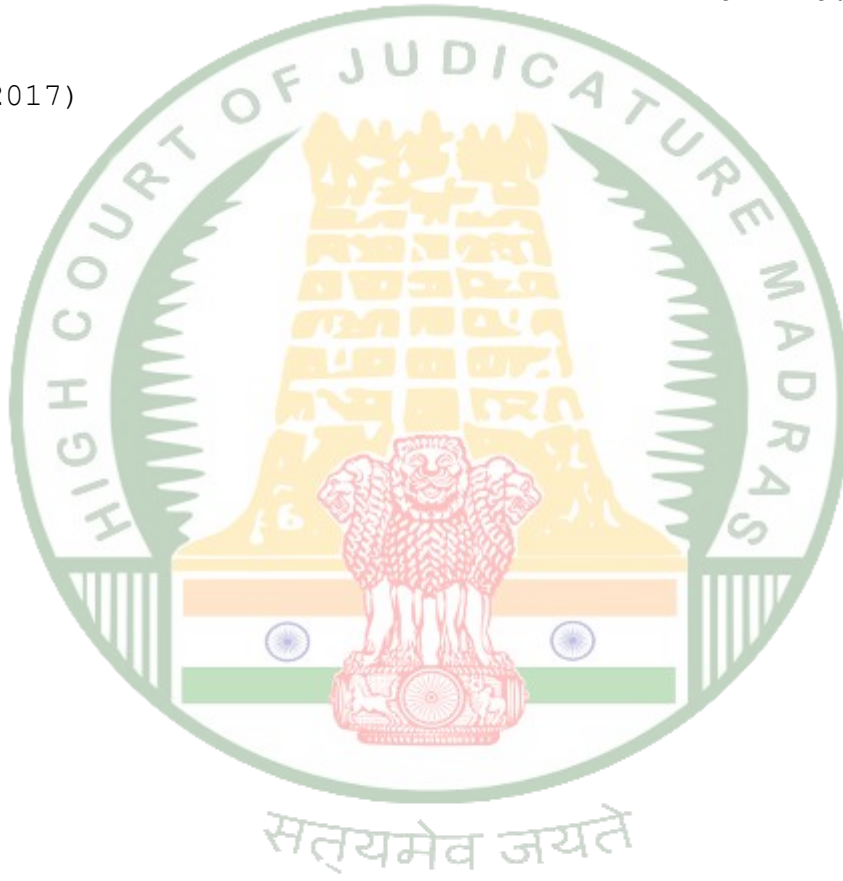
To

Motor Accidents Claims Tribunal,
The Chief Judicial Magistrate,
Thiruvannamalai.

+1cc to Mr.Sairaman, Advocate, S.R.No.17199

CMA NO.207 of 2017

RSY(CO)
RS(13/04/2017)



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