

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.250 of 2017

V.Chinnammal

... Appellant

versus

The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam Division-I) Ltd.,
Railway Station New Road,
Kumbakonam - 612 001.

... Respondent

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 23.12.2013 made in M.C.O.P.No.2832 of 2013 on the file of the Motor Accident Claims Tribunal (1st Additional District Judge), Cuddalore.

For Appellant : M/s.Ramya V.Rao
For Respondent : Mr.D.Venkatachalam

JUDGMENT

One V.Chinnammal, aged about 57 years, working as Caterer (self employed) and earning a sum of Rs.10,000/- per month, met with an accident on 12.06.2013, due to which, her left hand was amputated. Hence, she filed a claim petition before the Motor Accident Claims Tribunal (I Additional District Judge), Cuddalore, claiming compensation of Rs.25,00,000/-.

1.1. As against the claim made, the Tribunal has awarded a sum of Rs.1,28,250/- payable with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. The break-up details of the compensation reads as under:

Transportation	-	Rs. 11,650/-
Extra nourishment and		
Pain and Suffering	-	Rs. 20,000/-
Loss of income		
(Rs.5,000 x 12 x 7 x 23%)	-	Rs. 96,600/-

Total	-	Rs.1,28,250/-
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Challenging the quantum of compensation as inadequate, the claimant has filed the present appeal.

2. The learned counsel appearing for the appellant submitted that either at the age of 57 years (as claimed by the claimant at the time of accident) or at the age of 65 years (as fixed by the Tribunal based on the medical records), it is very difficult for the injured, who suffered amputation of left hand, to earn income for her livelihood; therefore, loss of earning capacity should be taken as 100% and if the multiplier of '7' is adopted, the compensation towards loss of income payable would be at Rs.5,46,000/-.

3. The learned counsel appearing for the respondent Transport Corporation submitted that loss of earning capacity cannot be taken as 100%, when there is only amputation of left hand; only in case of amputation of both hands, as per the schedule given under the Employees' Compensation Act, the loss of earning capacity can be taken as 100%; therefore, the loss of earning should be considered only at 50%.

3.1. The contention raised by the learned counsel for the respondent cannot be accepted.

3.2. It may not be difficult for the claimant to earn, if the claimant is of younger age, but, the amputation at the old age would have its own problem in every sphere of life including the part of earning. Ability to earn may decrease with the advancement in age, but, it is not an unusual scene in India, where there is no retirement for women to cook till life. Therefore, the loss of earning capacity at the age of 65 is taken as 100% and the loss of earning capacity would be Rs.5,46,000/- (Rs.6,500/- x 12 x 7 x 100%); awarding Rs.25,000/- towards pain and sufferings, Rs.50,000/- towards loss of enjoyment of amenities and Rs.25,000/- towards cost of attendant and Rs.20,000/- towards extra nourishment and Rs.20,000/- towards transportation and Rs.25,000/- towards future medical expenses, the total quantum of compensation is quantified at Rs.7,11,000/-, which is payable with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit (less the interest amount for the default period if any).

4. In the result, the Civil Miscellaneous Appeal is allowed, by enhancing the compensation from Rs.1,28,250/- to Rs.7,11,000/-, payable with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit (less the interest amount for the default period, if any).

5. The respondent Transport Corporation is directed to deposit the entire amount of compensation, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimant is permitted to withdraw the same. The claimant shall pay the deficit court fee if any. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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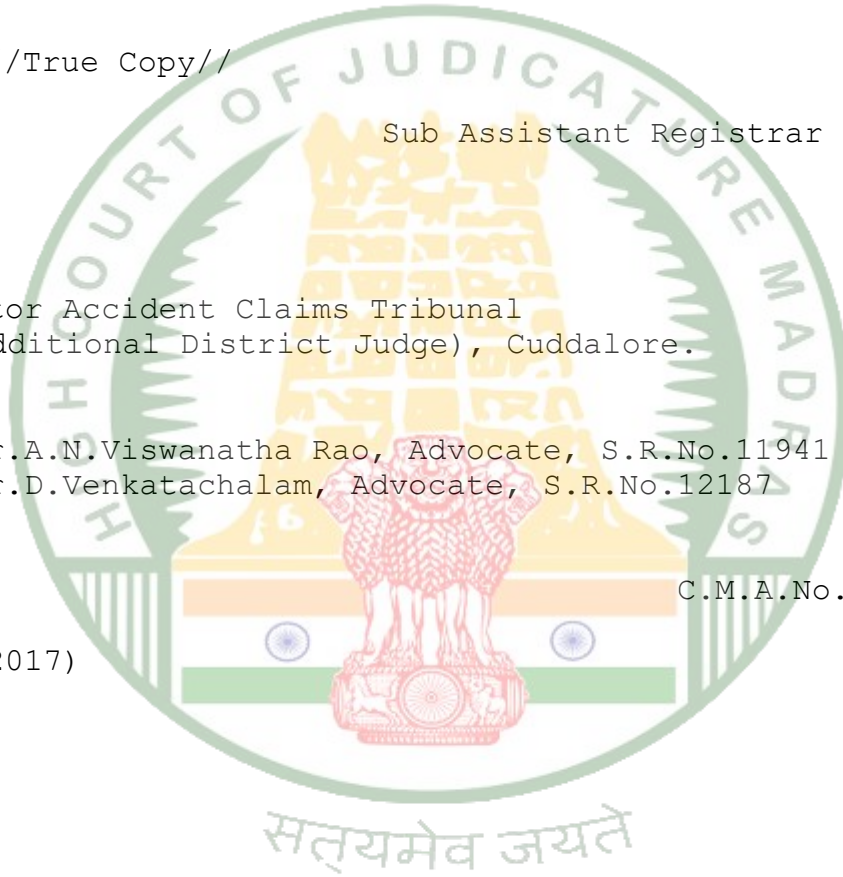
1. The Motor Accident Claims Tribunal
(1st Additional District Judge), Cuddalore.

+1cc to Mr.A.N.Viswanatha Rao, Advocate, S.R.No.11941

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.12187

C.M.A.No.250 of 2017

TM(CO)
RS(23/06/2017)



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