

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.320 of 2017

Venkatachalam

... Appellant/Petitioner

versus

The Managing Director,
Tamil Nadu Transport Corporation Ltd.,
Vellore.

... Respondent/Respondent

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 23.08.2011 made in M.A.C.T.O.P.No.338 of 2004 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Tiruvanamalai.

For Appellant : Mr.F.Terry Chella Raja
For Respondent : Mr.K.J.Sivakumar

JUDGMENT

The claimant Venkatachalam, aged 27 years, an agriculturalist by profession, earning a sum of Rs.3,000/- p.m. met with an accident that took place on 27.07.2003 and sustained injuries, in respect of which, he filed a claim petition before the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Tiruvanamalai, claiming a sum of Rs.1,00,000/- as compensation. The Tribunal, after considering the oral and documentary evidence, has awarded the compensation of 32,500/-. The break-up details of the compensation reads as under:

Medical expenses,Transport expenses	
Extra nourishment	- Rs.10,000/-
Pain and sufferings	- Rs. 7,500/-
Permanent disability	- Rs.15,000/-
Total	- Rs.32,500/-

Challenging the quantum of compensation as inadequate, the claimant has filed this appeal.

2. On account of accident, the claimant was taking treatment for one month as in-patient. Immediately after the accident,

the claimant has been admitted at Tiruvannamali Hospital. Out of four injuries, one injury has been certified as grievous injury (Ex.P5 - wound Certificate, AR copy). The claimant has suffered fracture of right leg-II and III metatarsal bone and the fracture malunited with bended shape and the left ankle remains bended and the movements in the front leg is restricted.

3. The Tribunal has awarded a sum of Rs.10,000/- towards extra-nourishment, medical expenses, transport expenses altogether and Rs.7,500/- towards pain and sufferings. The Tribunal has relied upon the evidence of P.W.6-Dr.Ravindran, who has certified disability at 30%. But, it has chosen to award only a sum of Rs.15,000/- towards disablement compensation. The total award is only Rs.32,500/-. The said award is under challenge in this appeal.

4. The main contention of the learned counsel for the appellant is that when the disablement is 30%, the compensation should have been awarded at the rate of Rs.2,000/- per percentage of disability and in that event, Rs.60,000/- would be appropriate towards disablement compensation and pain and sufferings should have been at least at Rs.10,000/-, having regard to the foot injury suffered by the claimant.

4.1. It is pointed out by the learned counsel for the appellant that loss of enjoyment of amenities has not been considered at all, when the claimant is a young man.

5. Having regard to the nature of the job, the disablement of 30% would have adverse impact upon his earning capacity. Considering the same, loss of earning capacity is awarded at Rs.60,000/- (Rs.2,000/= x 30%) and award of Rs.10,000/- is exclusively towards pain and suffering and Rs.5,000/- is awarded towards Medical expenses and Rs.5,000/- is awarded towards Transport expenses.

6. Therefore, the award is enhanced from Rs.32,500/- to Rs.80,000/-, payable along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.

7. In the result, this Civil Miscellaneous Appeal is allowed. No costs.

8. The Transport Corporation is directed to deposit the entire amount of compensation, less the amount already deposited if any, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, within a period of four weeks from the date of petition till the date of realization. On such deposit, the claimant is permitted to

withdraw the same. The claimant shall pay the court fee due, if any.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

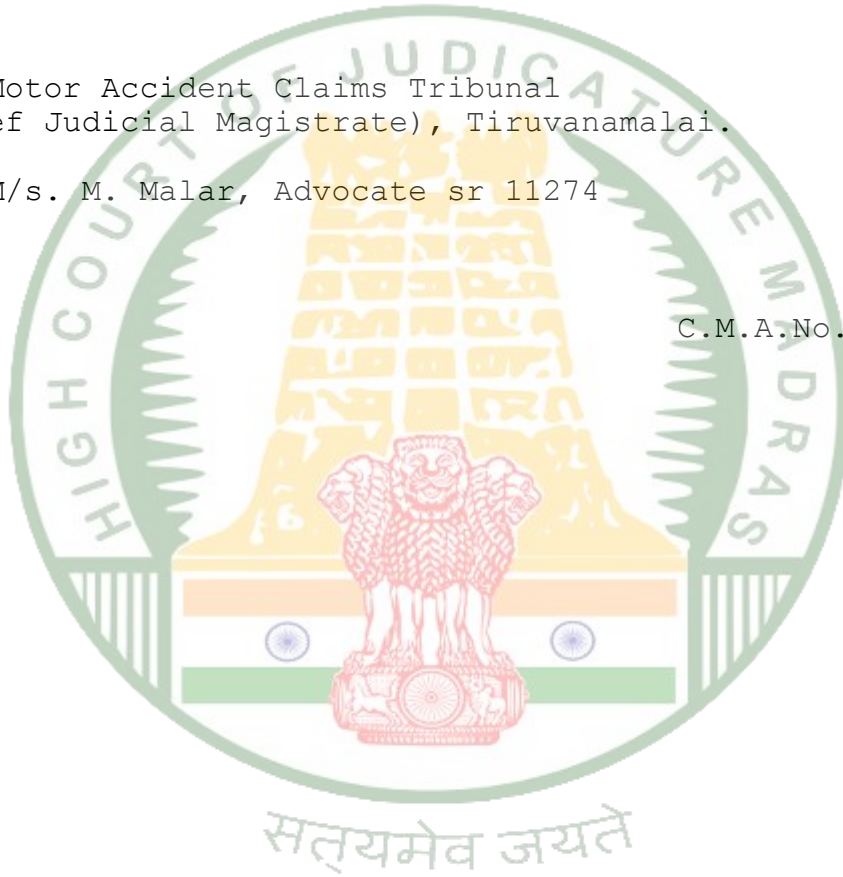
To

1. The Motor Accident Claims Tribunal
(Chief Judicial Magistrate), Tiruvanamalai.

+1 CC to M/s. M. Malar, Advocate sr 11274

C.M.A.No.320 of 2017

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