

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2017

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM  
and  
THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A Nos.3345 of 2017 and 2710 of 2014  
and  
C.M.P.No.21236 of 2017

CMA.No.3345 of 2017

The Managing Director,  
Metropolitan Transport Corporation Limited,  
Pallavan Salai, Chennai-2. ... Appellant

-Vs-

E.Pachiammal ... Respondent

CMA.No.2710 of 2014

E.Pachiammal ... Appellant

-Vs-

The Managing Director,  
Metropolitan Transport Corporation Limited,  
Pallavan Salai, Chennai-2. ... Respondent

Civil Miscellaneous Appeals filed u/s.173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 21.04.2014 passed in M.A.C.T.O.P.No.2089 of 2012 on the file of the learned II Judge, Motor Accident Claims Tribunal (Court of Small Causes), Chennai.

For Appellant in CMA.3345/2017

For Respondent in CMA.2710/2014 : Mr.K.S.Suresh

For Respondent in CMA.3345/2017

For Appellant in CMA.2710/2014 : Mr. P.T.Salim Fathima

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## COMMON JUDGMENT

(Judgment of the Court was delivered by C.T.SELVAM. J)

These Civil Miscellaneous Appeals have been preferred against Judgment and Decree dated 21.04.2014 passed in M.A.C.T.O.P.No.2089 of 2012 on the file of the learned II Judge, Motor Accident Claims Tribunal (Court of Small Causes), Chennai.

2. Appellant in CMA.No.3345 of 2017/Respondent in CMA.No.2710 of 2014 is the Transport Corporation. Respondent in CMA.No.3345 of 2017/Appellant in CMA.No.2710 of 2014 is the claimant. On 22.03.2012 at about 12.30 hours, Claimant, the last passenger to do so was alighting bus bearing registration No.TN-01-N-7942 (Route No.54C) at a Bus stop, when the conductor of the bus blew his whistle whereupon the driver suddenly accelerated, as a result of which claimant came to suffer grievous injuries. Claimant sought compensation in a sum of Rs.25,00,000/-.

3. Before Tribunal, claimant examined herself as P.W.1 and P.Ws.2 & 3. 9 exhibits were marked. On the side of respondent/Transport Corporation, one witness was examined and no exhibits were marked.

4. On appreciation of materials before it, Tribunal awarded compensation as follows:

|                                                |   |     |            |
|------------------------------------------------|---|-----|------------|
| (a) Loss of income for 6 months                | : | Rs. | 30,000/-   |
| (b) Transportation                             | : | Rs. | 15,000/-   |
| (c) Extra Nourishment                          | : | Rs. | 15,000/-   |
| (d) Damage to Clothes                          | : | Rs. | 1,000/-    |
| (e) Medical Expenses                           | : | Rs. | 5,000/-    |
| (f) Loss of amenities of life and Mental agony | : | Rs. | 50,000/-   |
| (g) Attender Charges                           | : | Rs. | 2,00,000/- |
| (h) Pain and suffering                         | : | Rs. | 1,00,000/- |
| (i) Loss of earning Power                      | : | Rs. | 1,20,000/- |

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Rs. 5,36,000/-  
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The said sum of Rs.5,36,000/- was directed to be paid with interest at 7.5% p.a. from the date of petition till the date of deposit. Challenging the quantum of award, Transport Corporation has filed CMA.No.3345 of 2017 and the claimant has filed CMA.No.2710 of 2014.

5. Heard learned counsel for Transport Corporation and learned counsel for respondent/claimant and perused materials available on record.

6. Learned counsel for Transport Corporation submitted that the Tribunal erred in awarding a huge sum of Rs.2,00,000/- towards attender charges. He contended that Tribunal ought to have awarded compensation under the head loss of earning power on percentage basis and not by adopting the multiplier.

7. Learned counsel for claimant submitted that as a result of the accident, claimant had lost all capacity to continue working as a sweeper. Therefore, Tribunal ought to have awarded compensation considering the percentage of disability at 100% instead of 40%, as decided by the Tribunal. She also contended that Attender Charges of Rs.2,00,000/- awarded by the Tribunal is justified inasmuch as the claimant took inpatient treatment for a period of 139 days.

8. We have considered the rival submissions. We find that the award of the Tribunal is justified. Even if we are to accept the contention of learned Counsel for Transport Corporation that the award of the Tribunal under the head loss of earning power should have been awarded on percentage basis by considering Rs.3000/- per percentage of disability a sum of Rs.1,20,000/- (40% X Rs.3000) would have to be awarded i.e. the sum awarded by Tribunal under the head of loss of earning capacity. We also find justified the grant of Rs.2,00,000/- towards attender charges as claimant has suffered hospitalisation for 139 days. Finding no reason to interfere with the order under challenge.

9. The Civil Miscellaneous Appeals are dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

kmi

To

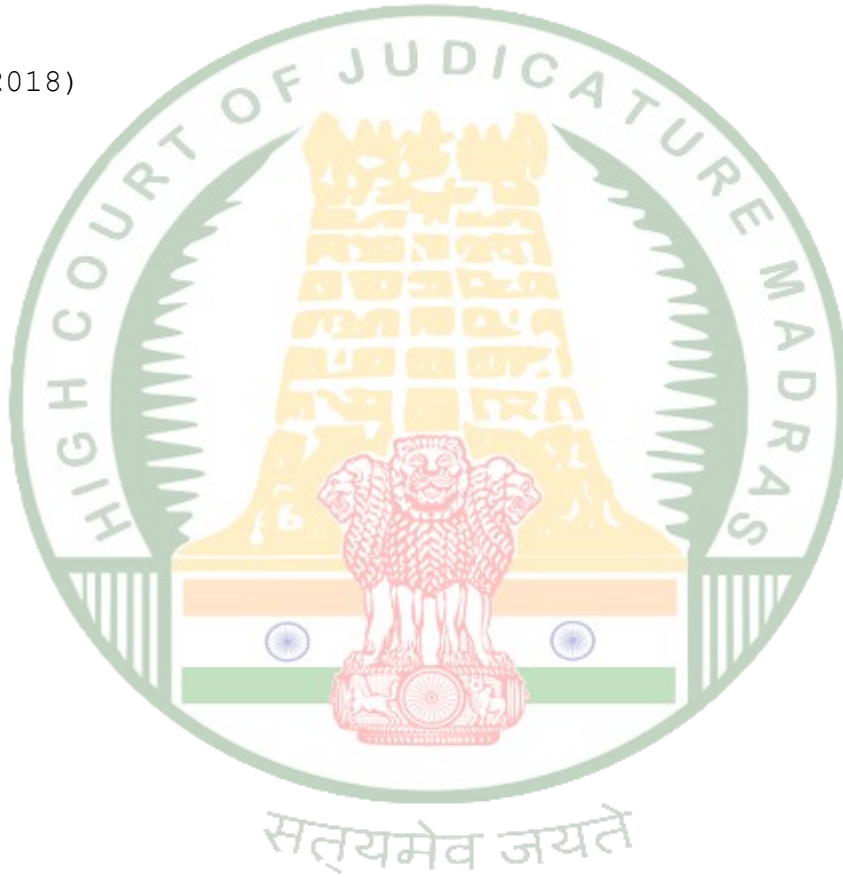
1. The II Judge,  
Motor Accident Claims Tribunal  
Court of Small Causes,  
Chennai.

2. The Section Officer,  
V.R.Section,  
High Court, Chennai-104.

+2cc to Mr.K.S.SURESH, Advocate, S.R.No.88065 & 88064  
+1cc to Mr.M.SWAMIKKANNU, Advocate, S.R.No. 87256

C.M.A.Nos.3345 of 2017  
and 2710 of 2014

SAI (CO)  
TR(05/02/2018)



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