

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.388 of 2017
and C.M.P.No.2794 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation
(Division III)
Kanchipuram. ... Appellant / Respondent

versus

L.Dhanislaus ... Respondent / Claimant

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 27.06.2012 made in M.C.O.P.No.147 of 2011 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Chenglepet.

For Appellant : Mr.S.Sairaman
For Respondent : Mr.J.Chandran

JUDGMENT

The claimant, L.Dhanislaus, aged about 40 years, working as Headmaster at E.O.Primary School, Poonjeri, Lothur Range, earning a sum of Rs.9,515/- per month, met with accident on 29.07.2000 and sustained injuries, in respect of which, he filed a claim petition in M.C.O.P.No.147 of 2011 before the Motor Accident claims Tribunal, Chief Judicial Magistrate, Chenglepet, claiming compensation of Rs.2,00,000/-.

1.1. As against the claim made, the Tribunal has granted a sum of Rs.1,21,000/- as compensation, 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 read as under:

Loss of income	-	Rs. 15,000/-
Transport to Hospital	-	Rs. 1,000/-
Extra nourishment	-	Rs. 1,000/-
Medical expenses	-	Rs. 42,000/-
Pain and sufferings	-	Rs. 10,000/-
Permanent disability	-	Rs. 52,000/-

Total	-	Rs.1,21,000/-
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2. The learned counsel appearing for the appellant would submit that the amount awarded by the Tribunal is disproportionate to the injury suffered. Therefore, the award needs to be reduced.

3. In order to appreciate the said contention, it is necessary to look into the details of the injury suffered by the claimant.

4. Discharge summary would go to show that the claimant has been admitted in the hospital on 29.07.2000 and discharged on 04.08.2000; he suffered fracture over mandible, for which open reduction and fixation was done.

4.1. As the salary certificate was not filed by the claimant, the Tribunal has fixed the monthly income of the claimant at Rs.5,000/- p.m.; due to the disablement, the claimant would not have been able to go to the work for three months, hence, the Tribunal has awarded the compensation of Rs.15,000/- (Rs.5,000 x 3) on account of loss of income for three months. For the disablement (40%), the Tribunal has awarded the compensation of Rs.52000/- (at the rate of Rs.1,300/- per percentage of disability); Rs.1000/- towards transport to hospital; Rs.1,000/- towards extra nourishment; Rs.42,000/- towards medical expenses as per the bills; Rs.10,000/- towards pain and sufferings. The total compensation is Rs.1,21,000/-.

4.2. During the relevant time of accident, there had been a practice of awarding Rs.2,000/- per percentage for disablement compensation, where, application of multiplier method of quantification in respect of loss of earning capacity was not possible. In this case, the compensation awarded is at the rate of Rs.1,300/- per percentage. Hence, the amount of compensation awarded by the Tribunal cannot be said to be excessive and the appeal is liable to be dismissed.

5. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 27.06.2012 passed in M.C.O.P.No.147 of 2011 by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Chenglepet.

6. The Transport Corporation is directed to deposit the entire award amount, 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 six weeks

from the date of receipt of a copy of this Judgment. On such deposit, the claimant is entitled to withdraw the same. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

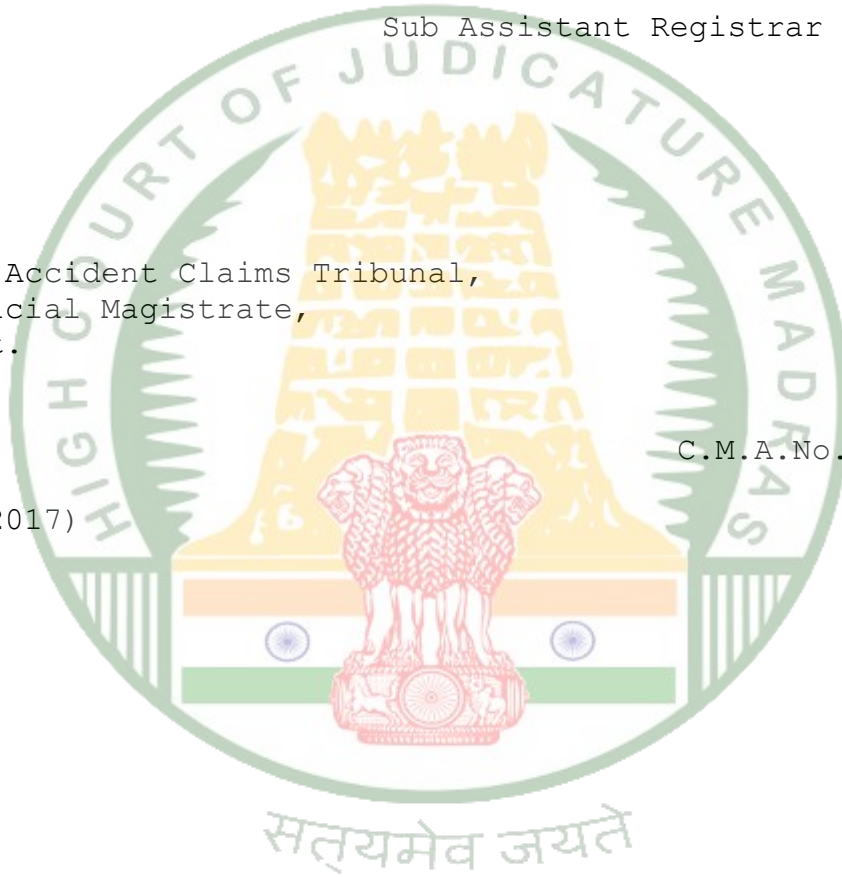
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To

The Motor Accident Claims Tribunal,
Chief Judicial Magistrate,
Chenglepet.

SR(CO)
RS(13/06/2017)

C.M.A.No.388 of 2017



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