

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2017

CORAM:

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.475 of 2017

and

C.M.P.No.3187 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation
(VPM DVN.I) Ltd.,
Villupuram. Appellant/Respondent
(Cause title accepted vide order of
the Court dated 23.06.2006 by DMJ in
CMP.7658 of 2006)

Versus

Baby Respondent/Claimant

Prayer : This appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 20.03.2001 made in M.C.O.P.No.598 of 1995 on the file of the Motor Accident Claims Tribunal (Principal Sub Judge), Tindivanam.

For Appellant : Mr.R.Balakrishnan

JUDGMENT

The claimant, Baby, aged about 35 years, doing handicraft (toys and dolls), earning a sum of Rs.2000/- per month, met with an accident on 29.04.1992 and sustained injuries, in respect of which, she filed a claim petition in M.C.O.P.No.598 of 1995 before the Motor Accident Claims Tribunal (Principal Sub Judge), Tindivanam, claiming compensation of Rs.2,00,000/-.

1.1. As against the claim made, the Tribunal has awarded a sum of Rs.1,47,000/- along with interest at 12% p.a. from the date of petition till the date of deposit. Challenging the same, the Transport Corporation has filed this Civil Miscellaneous Appeal.

2. The learned counsel appearing for the Transport Corporation submitted that even though Doctor has spoken about the disability at 90%, he is not the doctor, who has treated the patient and therefore, his evidence should not have been given much importance.

3. P.W.4-Dr.Ramanujam, in his evidence, stated that on a perusal of the x-rays (Exs.P15 and P16) given by Jipmer Hospital, it is seen that the claimant sustained fracture of

bones in both the legs, due to which, she could not walk freely and there is pain while touching in the fractured place and there is also structure of knots in the fractured place, hence, she would not be able to sit and do any work as before, therefore, she suffered 90% disability. Hence, the Doctor has assessed the disability at 90%. The Tribunal, after considering the documents with regard to the injury and the avocation, has awarded the compensation in respect of pain and sufferings and also for permanent disablement. The Tribunal has awarded disablement compensation at Rs.50,000/- and loss of earnings and loss of earning capacity has been awarded at Rs.60,000/-. It is also relevant to point out that multiplier method of quantification has not been adopted to assess the loss of earning capacity.

4. From the details of the award passed, it is evident that loss of enjoyment of amenities has not been considered at all.

5. It is not correct to contend that it is only the Doctor, who treated the patient would speak about the disablement based on medical records. The disablement can even be assessed by the doctor, who did not treat the patient. Therefore, just because, evidence is given by the doctor, who did not treat the patient, his evidence cannot be discarded. In any event, the evidence should be scrutinized more deeply.

5.1. In fact, the Tribunal should have awarded more compensation, considering the impact of disability upon the household activities of the petitioner.

6. The accident was of the year 1992 and the Tribunal has passed the award in the year 2001. Considering the injuries suffered by the claimant and also considering present cost of living, the award passed by the claims Tribunal cannot be said to be excessive. Hence, the award is confirmed.

7. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 20.03.2001 passed in M.C.O.P.No.598 of 1995 by the Motor Accidents Claims Tribunal (Principal Sub Judge), Tindivanam.

8. The appellant Transport Corporation is directed to deposit the award amount along with interest at the rate of 12% p.a. from the date of petition till the date of deposit, less the amount already deposited if any, within a period of six 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. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

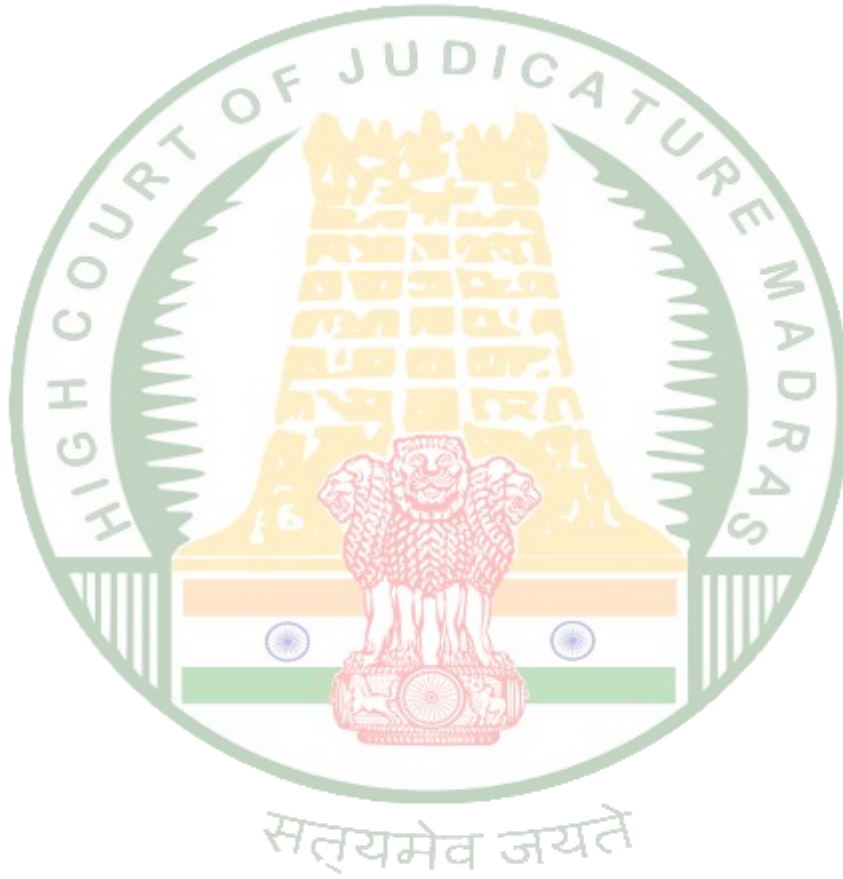
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To

The Motor Accident Claims Tribunal
(Principal Sub Judge),
Tindivanam.

C.M.A.No.475 of 2017

SKV (CO)
CA (11/10/2017)



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