

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 13.03.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.M.A.No.541 of 2017

R.Somasundaram

... Appellant/Petitioner

versus

The Managing Director,
Metropolitan Transport Corporation,
Anna Salai, Chennai - 600 002. ... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 20.06.2014 made in M.C.O.P.No.5199 of 2012 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai.

For Appellant : Mr.Amar D.Pandiya

For Respondent : Mr.S.Sivakumar

J U D G M E N T

The claimant is the appellant in M.C.O.P.No.5199 of 2012 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai. The claimant has filed the above Motor Claims Original Petition claiming a compensation of Rs.6,00,000/- for the injuries sustained by him in a motor accident on 25.10.2012. The respondent is the owner of the offending vehicle.

2. On 25.10.2012, at about 16.30 hours, when the appellant / claimant was going on his motor cycle bearing Registration No.TN-48-X-5578 at Dr.J.J.Nagar (East) Road, Mugappair East and the MTC Bus bearing Registration No.TN-01-N-7893 was driven by the driver in a rash and negligent manner and collided with the vehicle coming from the opposite direction, as a result of the accident, the appellant sustained grievous injuries.

3. At the time of accident, the claimant was studying in second year in MGR Thai Mookambigai Polytechnic College, Chennai and he was 21 years old. He has prayed for a total compensation of Rs.6,00,000/-. After considering the oral and documentary evidence, the Tribunal held that the accident occurred due to the negligent act of the driver of the bus and awarded compensation as detailed below:-

Heads	Rs. P.
Loss of Education	10,000.00
Transport to Hospital	10,000.00
Extra Nourishment	20,000.00
Damage to clothing	1,000.00
Loss of amenities	10,000.00
Attender charges	10,000.00
Pain and suffering	50,000.00
Disability at 45% at Rs.2,000/- per percentage	90,000.00
Total	2,01,000.00

The total compensation of Rs.2,01,000/- was directed to be paid with interest at the rate of 7.5% per annum.

4. The learned counsel appearing for the appellant/claimant would submit that the disability of the claimant was assessed at 45%. P.W.2 Doctor was examined to speak about the nature of injuries sustained by the claimant. He has issued Ex.P.11 Disability certificate. He assessed the disability at 45%. The Tribunal fixed Rs.2,000/- per percent and awarded Rs.90,000/- towards disability. The amount fixed by the Tribunal towards disability was too low and the Tribunal ought to have fixed Rs.3,000/- per percent.

5. Heard the learned counsel appearing for the respondent and perused the records.

6. A perusal of records would show that the claimant took treatment for more than 70 days for fracture of both bone in right leg and other injuries. The Tribunal awarded only Rs.10,000/- towards Transportation. This Court deem it fit to award an additional sum of Rs.10,000/- under the head of Transportation. So far as the disability is concerned, the percentage of disability has found by the Tribunal at 45% is retained. However, it may be calculated at the rate of Rs.3,000/- per percentage of disability and it comes to Rs.1,35,000/-. Hence, the amount under the head "disability" should be enhanced from Rs.90,000/- to Rs.1,35,000/-. The

Tribunal awarded Rs.50,000/- under the head "pain and sufferings". Due to the accident, the claimant had to discontinue his studies for more than 70 days and hence, the amount under this head should be enhanced to Rs.75,000/-. The Tribunal awarded Rs.10,000/- under the head Attendant Charges. It would be reasonable to award Rs.25,000/- under this head. The Tribunal awarded only a sum of Rs.10,000/- towards loss of amenities. Considering the nature of injuries sustained by the claimant, I am inclined to enhance the amount to Rs.20,000/- under this head. The Tribunal omitted to award any amount under the head medical expenses. Having regard to the nature of injuries and treatment, I am inclined to award Rs.10,000/- under this head. The amounts awarded under the other heads appear to be reasonable. Therefore, they are to be confirmed. The compensation awarded by the Tribunal is revised as follows:

Sl.No	Heads	Calculation
1.	Loss of Education	Rs.10,000.00
2.	Medical Expenses	Rs.10,000.00
3.	Transportation to Hospital	Rs.20,000.00
4.	Extra Nourishment	Rs.20,000.00
5.	Damage to Clothing	Rs.1,000.00
6.	Loss of Amenities	Rs.20,000.00
7.	Attendant Charges	Rs.25,000.00
8.	Pain and Suffering	Rs.75,000.00
9.	Disability at 45% at Rs.3,000/- per percent	Rs.1,35,000.00
Total	Compensation Awarded	Rs.3,16,000.00

7. In the result, the Civil Miscellaneous Appeal is partly allowed to the extent as indicated above. The respondent-Transport Corporation is directed to deposit the enhanced award amount of Rs.3,16,000/- [Rupees Three Lakhs Sixteen Thousand only] with interest @ 7.5% per annum and costs, less the statutory deposit, to the credit of M.C.O.P.No.5199 of 2012 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai, within a period of six weeks from the date of receipt of a copy of this order. However, the same may be waived for 508 days, as there was a delay in filing the appeal and as a condition, the claimant had compute to waive the interest. The appellant-claimant is permitted to withdraw the

enhanced compensation amount awarded by this Court with proportionate interest less the amount already withdrawn, if any, by making necessary application before the Tribunal. There shall be no orders as to costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

sri
To

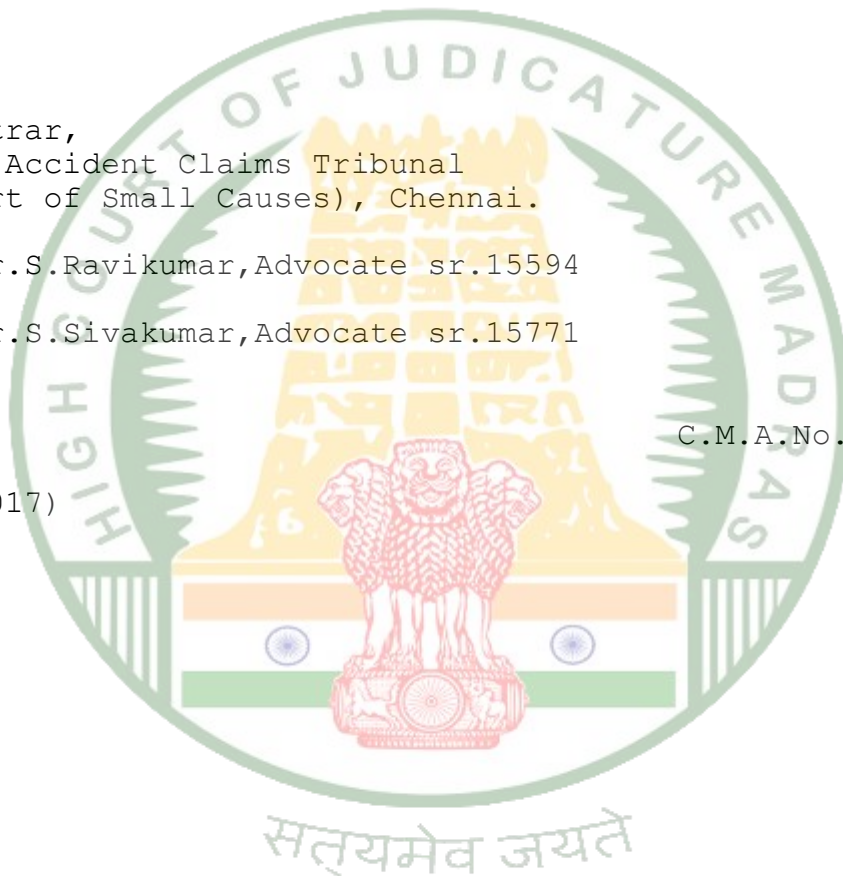
The Registrar,
The Motor Accident Claims Tribunal
(III Court of Small Causes), Chennai.

+1cc to Mr.S.Ravikumar,Advocate sr.15594

+1cc to Mr.S.Sivakumar,Advocate sr.15771

gj (co)
ss(28/3/2017)

C.M.A.No.541 of 2017



WEB COPY