

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.712 of 2017
and
CMP.No.3982 of 2017

The Managing Director
Tamilnadu State Transport Corporation Ltd.,
Coimbatore Division-II, Chennimalai Road,
Erode. Appellant /Respondent

Vs.

Prakash Respondent/Petitioner

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act, 1989 against the judgment and decree dated 27.02.2013 made in MCOP.No.836/2010 on the file of the Motor Accident Claims Tribunal, I Additional District Judge, Tiruppur.

For Appellant : Mr.R.T.Sundari

For Respondent : Mr.Ma.P.Thangavel

J U D G M E N T

Challenging the liability as well as quantum of compensation awarded by the Claims Tribunal, in M.C.O.P.No.836 of 2010, on 27.02.2013, the Transport Corporation has come forward with this Civil Miscellaneous Appeal.

2. The claimant Mr.Prakash, who was aged 20 years, employed as a Tailor, earning a sum of Rs.7,500/- per month, met with an accident that occurred on 08.04.2010. Due to which, he sustained fracture in the right leg and right hand also sustained grievous injuries. Hence, he filed a claim petition in M.C.O.P.No.836 of 2010, seeking compensation for a sum of Rs.11,92,500/-.

3. The Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs.6,00,812/-, with interest @ 7.5% per annum from the date of petition till the date of deposit. The break-up details of the same are as follows:

Loss of earnings	-	Rs. 4,80,000/-
Pain and sufferings	-	Rs. 25,000/-
Loss of amenities	-	Rs. 20,000/-
Transport	-	Rs. 2,000/-
Nutrition	-	Rs. 2,000/-
Medical Expenses	-	Rs. 71,812/-
Total		Rs. 6,00,812/-

4. The learned counsel for the appellant would submit that the amount awarded by the Tribunal is very high and it needs to be reduced. It is his further submission that the Claims Tribunal has fixed a sum of Rs.5,000/- as monthly income of the deceased without any proof which is on the higher side and the amount towards medical expenses is also very high.

5. A perusal of the award would go to show that P.W.2-doctor-who examined the claimant, in his evidence has categorically stated that the claimant has sustained fracture in the right leg and it would be difficult even to walk freely as before and assessed disability @ 59.6%. Considering the nature of injuries and the fracture sustained by the claimant, the Claims tribunal has rightly awarded a sum of Rs.4,80,000/- towards Loss of earnings. The monthly income fixed by the tribunal Rs.5,000/- per month, for the claimant, who was a tailor cannot be said to be excessive. The Medical Expenses, was awarded as per Ex.P5-Medical Bills are also justified and therefore the same cannot be said to be excessive.

6. Considering the nature of injury and the period of treatment undergone by the claimant, the Tribunal has awarded the compensation which is reasonable. The Tribunal, after considering the oral and documentary evidence has correctly fixed the negligence on the part of the driver of the bus belonging to appellant Corporation. Therefore, there is no reason to interfere with the award passed by the Claims Tribunal, dated 27.02.2013.

7. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the Judgment and decree of the claims Tribunal, dated 27.02.2013, in M.C.O.P.No.836 of 2010. The appellant-Transport Corporation is directed to deposit the award amount, within a period of four weeks, from the date of receipt of a copy of this order. On such deposit made, the Claimant is permitted to withdraw. No costs.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

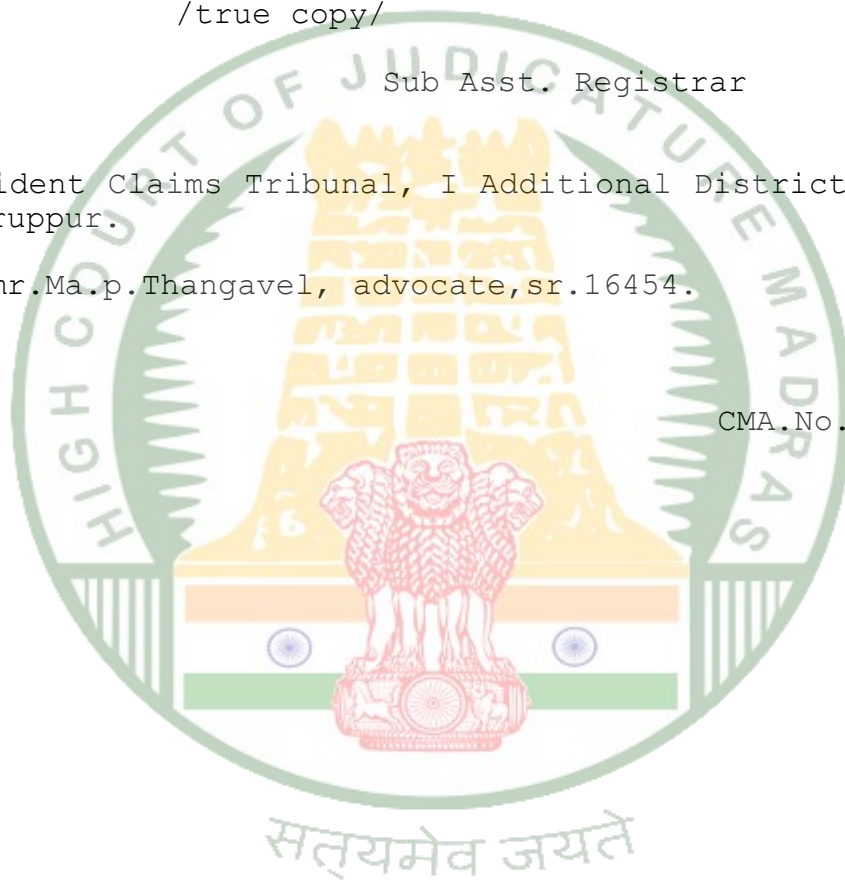
To

Motor Accident Claims Tribunal, I Additional District & Sessions Judge, Tiruppur.

+1 cc to mr.Ma.p.Thangavel, advocate,sr.16454.

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CMA.No.712 of 2017



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