

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No. 474 of 2014

N.Srinivasan

.. Appellant/Petitioner

versus

The Managing Director,
Tamil Nadu Transport Corp. Ltd.,
No.12, Ramakrishna Road,
Salem.

..Respondent/Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 18.09.2010, made in M.C.O.P.No.919 of 2005 on the file of the Motor Accident Claims Tribunal, II Additional Subordinate Judge, Salem.

For appellant : Mr.V.Kumaravelan
For respondent : Mr.S.V.Vasanthakumar

J U D G M E N T

The Tribunal, vide its judgment dated 18.9.2010, made in MCOP No.919 of 2005, has dismissed the petition on the ground that the petition lacks bona fide.

2. The claimant, Srinivasan, aged 30 years, a Tempo Driver, earning a sum of Rs.5,000/- per month, met with an accident on 14.08.2005 due to which the petitioner/claimant suffered grievous injuries. Hence, the claimant filed M.C.O.P.No.919 of 2005, before the II Additional Subordinate Judge, Salem, claiming a sum of Rs.2,00,000/- as compensation. The Tribunal, vide order dated 18.09.2010, dismissed the petition on the ground that the petition lacks bona fide. Aggrieved by the said order, the present appeal has been preferred by the claimant.

3. Heard the learned counsel appearing on either side.

4. According to the claimant, he sustained Fracture on right side Shoulder, cut injury on forehead, lost his right side eye vision, fracture to the nostril bone, cut injury on his right knee, cut injury on his right hand and multiple injuries all

over the body.

5. Though it is claimed by the petitioner that the accident was on account of the negligence of the driver of the respondent/Transport Corporation, however, the same was not admitted by the Transport Corporation, but the same was countered stating that the accident took place on account of the negligence on the part of the claimant. In paragraph 11 of the counter affidavit, filed before the Tribunal, it is stated by the respondent that though the respondent bus driver was vigilant enough and tried to stop the bus, however, the petitioner dashed against the bus, while crossing the road.

6. Mere delay of 6 days in the registration of FIR by itself cannot lead to the conclusion that the petition lacks bona fide, when the fact remains that the respondent has, on its own accord, admitted the accident.

7. The documents produced by the claimant before the Court below reveals that the the claimant was in-patient for 4 days. The medical reports, in the form of scan report reveals that there had been a right frontal extra cranial soft tissue contusion with periorbital swelling. Even though there was no major injuries on the body, as claimed, however, considering the nature of the injury it is evident that injured must have suffered loss of income for a period of atleast one month, more so when he was admitted in the hospital as in-patient for a period of four days. Therefore, considering his avocation and the fact that there would definitely have been loss of earning atleast for some period of time, this Court feels that a sum of Rs. 5,000/- under the head "Loss of income", would meet the ends of justice. Further, it can safely be concluded that the petitioner having been admitted in the hospital as an in-patient and suffered injuries, would have definitely undergone pain and suffering on account of the said injuries. Therefore, a sum of Rs.10,000/- under the "pain and suffering" would be just and reasonable. As the petitioner was hospitalised, which fact is not in dispute, a sun of Rs.5,000/= each under the head "Medical Expenses" and "Extra Nourishment", would be a justified addition. In all, this Court feels that a compensation in a sum of Rs.25,000/- would be just and reasonable in the facts and circumstances of the case, which would carry interest @ 7.5% per annum from the date of petition till the date of deposit.

For the reasons aforesaid, this appeal is allowed and the award dated 18.09.2010 passed by the Motor Accident Claims Tribunal, (II Additional Subordinate Judge), Salem, made in M.C.O.P.No.919 of 2005 is set aside. The respondent/Transport Corporation is directed to deposit the entire amount of compensation, as ordered by this Court above, alongwith

interest, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the petitioner/claimant, shall be permitted to withdraw the same on filing necessary application. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

arr/GLN

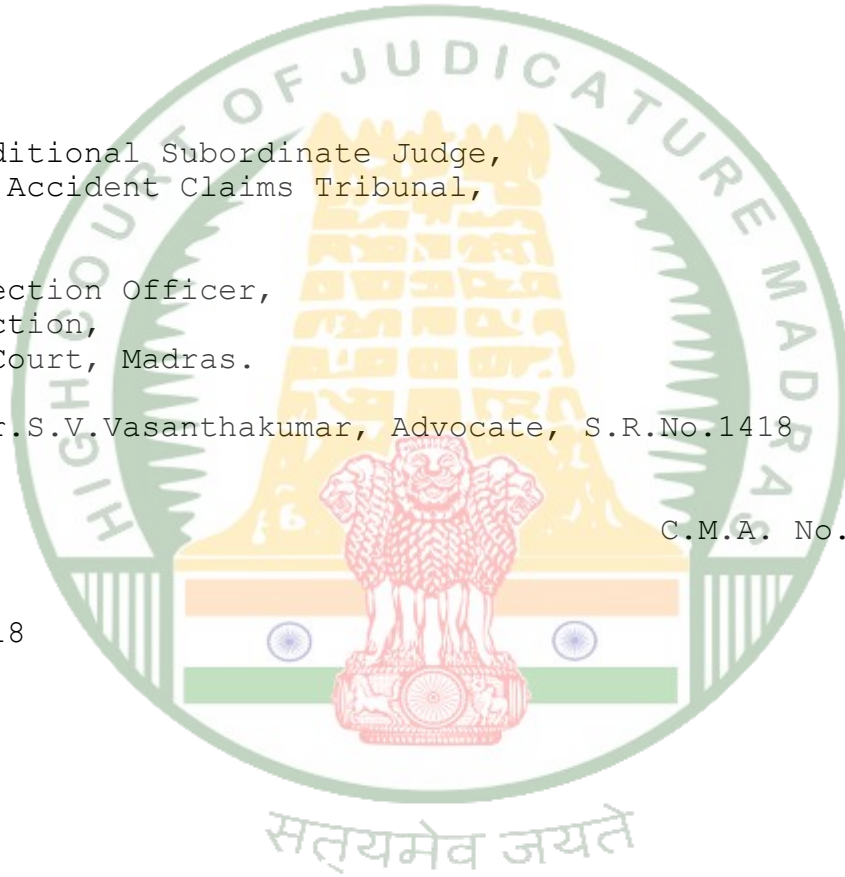
To

1. II Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Salem.
2. The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.S.V.Vasanthakumar, Advocate, S.R.No.1418

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SVI (CO)
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