

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 10.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.89 of 2017

and

CMP.No.728 of 2017

The Managing Director
Metropolitan Transport Corporation Ltd
Pallavan Salai,
Chennai-2. ... Appellant /Respondent

versus
Mr.N.Prabu ... Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 22.06.2015 made in M.C.O.P.No.364 of 2009 on the file of the Motor Accident Claims Tribunal (Special Sub Judge-II to deal with MCOP cases), Chennai.

For appellant : Mr.S.Sivakumar

J U D G M E N T

This appeal has been filed by the Transport Corporation challenging the quantum of compensation awarded by the Claims Tribunal in M.C.O.P.No.364 of 2009, on the file of Motor Accidents Claims Tribunal (Special Sub Judge II to deal with MCOP cases), Chennai.

2. The claimant, Prabhu aged 31 years, employed as Test Lead in M/s. D & Productire Science & Anaytes Pvt. Ltd., Perungudi, Chennai, earning a sum of Rs.60,000/- per month, a tax assessee sustained injuries in the accident that happened on 11.06.2008. Therefore, he filed a claim petition claiming compensation in a sum of Rs.9,00,000/-.

3. The Claims Tribunal, on considering the oral and documentary evidence has awarded a sum of Rs. 2,50,000/- as compensation. The break-up details of the same are as under:

1. For 30% partial and permanent disability at the rate of Rs.2,000/- per percent	-	Rs. 60,000/-
2. Pain and sufferings	-	Rs. 60,000/-
3. Transportation charges	-	Rs. 5,000/-
4. Extra Nourishment	-	Rs. 5,000/-
5. Cost of Attender	-	Rs. 5,000/-
6. Loss of income for 2 months	-	Rs. 10,000/-
7. Loss of future prospects	-	Rs. 50,000/-
8. Loss of Amenities	-	Rs. 50,000/-
9. Medical Expenses	-	Rs. 5,000/-

		Rs.2,50,000/-

4. The learned counsel for the appellant contended that the tribunal was not justified in awarding a sum of Rs.2,50,000/- as compensation, without any supporting documents and that the compensation awarded is excessive.

5. In order to appreciate this contention, it is necessary to look into the reasoning given by the tribunal. A perusal of the order passed by the Tribunal reveals that the Tribunal, has considered the pay slip, Ex.P-16, issued for the month of January 2010, which shows the income of the claimant at Rs.58,629/-. Based on the said document, keeping in mind the nature of injuries sustained by the claimant, the period of treatment and the impact of the injuries on the day-to-day activities of the claimant, adopted percentage method to quantify the compensation relating to disability. Accordingly, adopting Rs.2,000/- per percentage of disability, the Tribunal, fixed the disability at 30% based on the documentary evidence relating to disability and quantified the compensation at Rs.60,000/-. It is also pertinent to note that the Tribunal, on the facts and circumstances of the case and on the basis of the evidence available on record did not adopt multiplier method to decide the loss of earning capacity, which is fully justified and the same does not call for any interference. Accordingly, the compensation of Rs.60,000/- awarded towards disability is neither excessive nor disproportionate and the accordingly the same is confirmed. It is claimed that Award of Rs.50,000/- towards future prospects is unwarranted, after awarding disablement compensation. The employability of claimant elsewhere would be a loss. The compensation awarded under the heads Transportation expenses, extra nourishment and loss of amenities are on the lower side. Accordingly, the compensation under the heads transport expenses, extra nourishment, attendant charges and loss of amenities are enhanced by Rs.15,000/-, Rs.15,000/-, Rs.10,000/- and Rs.10,000/- respectively.

6. Insofar as the compensation awarded under the other heads are concerned, the Tribunal has considered the evidence in proper perspective and further taking into account the injuries sustained and the period of treatment taken and the attendant necessities of the situation, has chosen to award just and reasonable compensation, which cannot be said to be excessive. Accordingly, the compensation awarded under the other heads are also confirmed.

7. The compensation awarded is restructured as hereunder:

1. For 30% partial and permanent disability	
at the rate of Rs.2,000/- per percent	- Rs. 60,000/-
2. Pain and sufferings	- Rs. 60,000/-
3. Transportation charges	- Rs. 20,000/-
4. Extra Nourishment	- Rs. 20,000/-
5. Cost of Attender	- Rs. 15,000/-
6. Loss of income for 2 months	- Rs. 10,000/-
7. Loss of Amenities	- Rs. 60,000/-
8. Medical Expenses	- Rs. 5,000/-

	Rs.2,50,000/-

8. For the reasons aforesaid, this Civil Miscellaneous Appeal stands dismissed, confirming the Judgment and Decree dated 22.06.2015, made in M.C.O.P.No.364 of 2009, passed by the learned Motor Accidents Claims Tribunal (Special Sub Judge II to deal with MCOP Cases), Chennai. No costs. Consequently, connected Miscellaneous Petition is closed.

9. The appellant/Transport Corporation is directed to deposit the entire award amount as quantified by the Tribunal along with interest and costs, less the amount, if any, already deposited to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

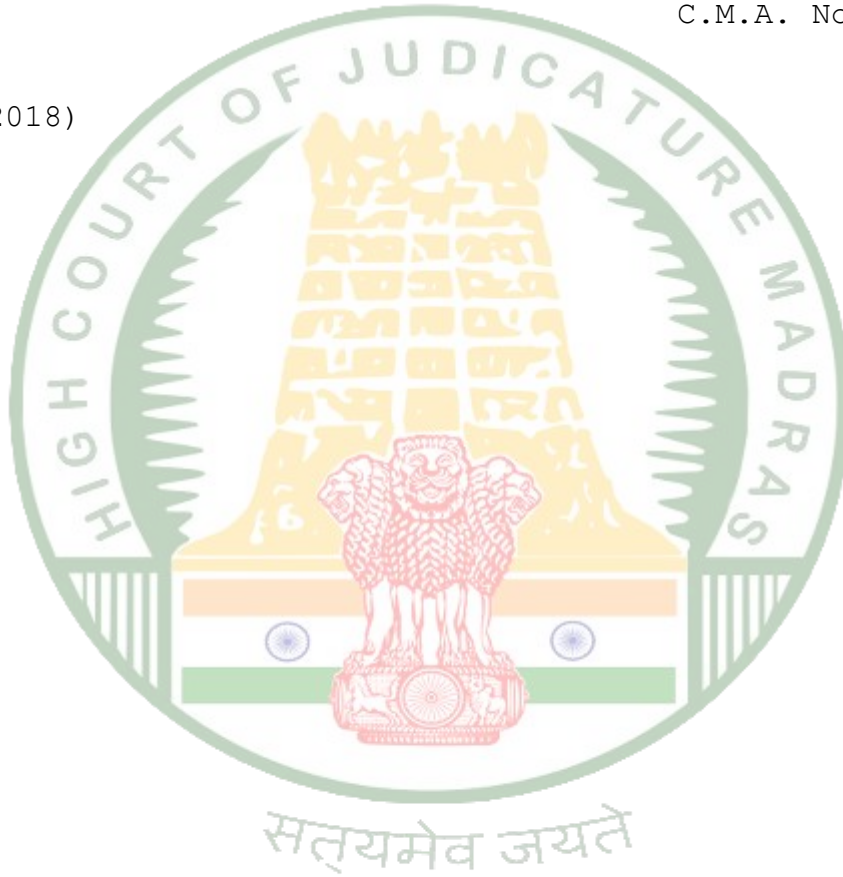
arr/GLN

To

1. Motor Accident Claims Tribunal
(Special sub judge-ii to deal with MCOP cases)
chennai.
2. The Section Officer, VR Section,
High Court, Madras.(2 copies)

C.M.A. No.89 of 2017

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