

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2017

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

CMA.No.3603 of 2013
and MP.No.1 of 2013

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Chennai - 600 002. ... Appellant/Respondent

Vs.
P.Rathinakumar ... Respondent/Claimant

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award made in MCOP.No4021 of 2008 dated 02.04.2012 on the file of the Motor Accident Claims Tribunal (V Court of Small Causes), Chennai.

For Appellant :Mr.K.S.Suresh
For Respondent :Mr.S.Parthasarathy

JUDGMENT

In a road accident that took place on 10.12.2007, a motorcyclist was knocked down by a bus belonging to the appellant owing to which he suffered multiple fractures all over his left leg. He approached the Tribunal with a claim of Rs.20,00,000/- whereas the Tribunal has passed an award for Rs.4,60,500/-.

2. The claimant was 22 years at that relevant time and was stated to be a mechanical engineer (to prove no documents were produced). P.W.3 the doctor who assessed the disability has determined it at 60% and the Tribunal

has taken it at 55% and computed the compensation on permanent disability at Rs.2,000/- per percentage of disability. The compensation awarded by the Tribunal on various pecuniary and non-pecuniary heads of damages is tabulated below :

Heads	Amount Awarded (Rs.)
Permanent disability	1,10,000.00
Loss of income	18,000.00
Transportation	5,000.00
Extra nourishment	6,000.00

Heads	Amount Awarded (Rs.)
Damages	1,000,00
Medical expenses	1,30,286.00
Pain and sufferings	40,000.00
Loss of earning capacity	1,50,000.00
Total :	4,60,286.00 (rounded off to Rs.4,60,500/-)

3. The learned counsel for the appellant submitted that it is a case where the Tribunal has erred in awarding compensation both under the heads of permanent disability as well as on the head of future earning capacity and this method awarded by the Tribunal is not tenable.

4. Per contra, the learned counsel for the claimant would submit that it is a case where the claimant was said to have suffered functional disability inasmuch as he as a young mechanical engineer cannot perform with optimum efficiency with a stiff leg, something P.W.3 the doctor has diagnosed.

5. I find partial merit in the submissions of both counsels. Accordingly, I determine the functional disability of the appellant at 25%. At that rate, the loss of future earning capacity of the claimant is determined as Rs.4500 x 12 x 18 x 25% = Rs.2,43,000/-. On other heads of compensation, I find the award is in order. However, for the sake of convenience the reworked compensation sum with break-up details is tabulated below :

Heads	Amount (Rs.)
Permanent disability / Loss of earning capacity	2,43,000.00
Loss of income	18,000.00
Transportation	5,000.00
Extra nourishment	6,000.00
Damages	1,000,00
Medical expenses	1,30,286.00
Pain and sufferings	40,000.00
Total :	4,43,286.00 (rounded off to Rs.4,43,500/-)

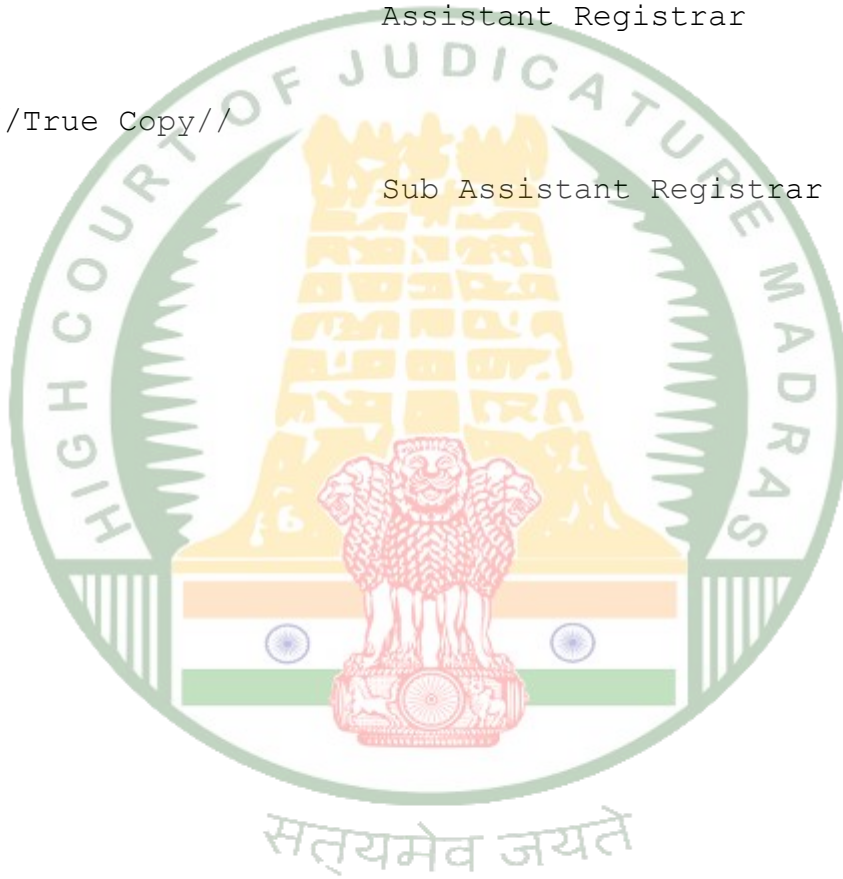
6. In the result, the appeal is partially allowed and the compensation as awarded by the Tribunal is reduced to Rs.4,43,500/-. The appellant submitted that he had deposited the entire sum awarded by the Tribunal. It is now entitled to withdraw Rs.17,000/- with accrued interest lying in Court deposit and the claimant is permitted to withdraw the balance award amount with interest forthwith. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar



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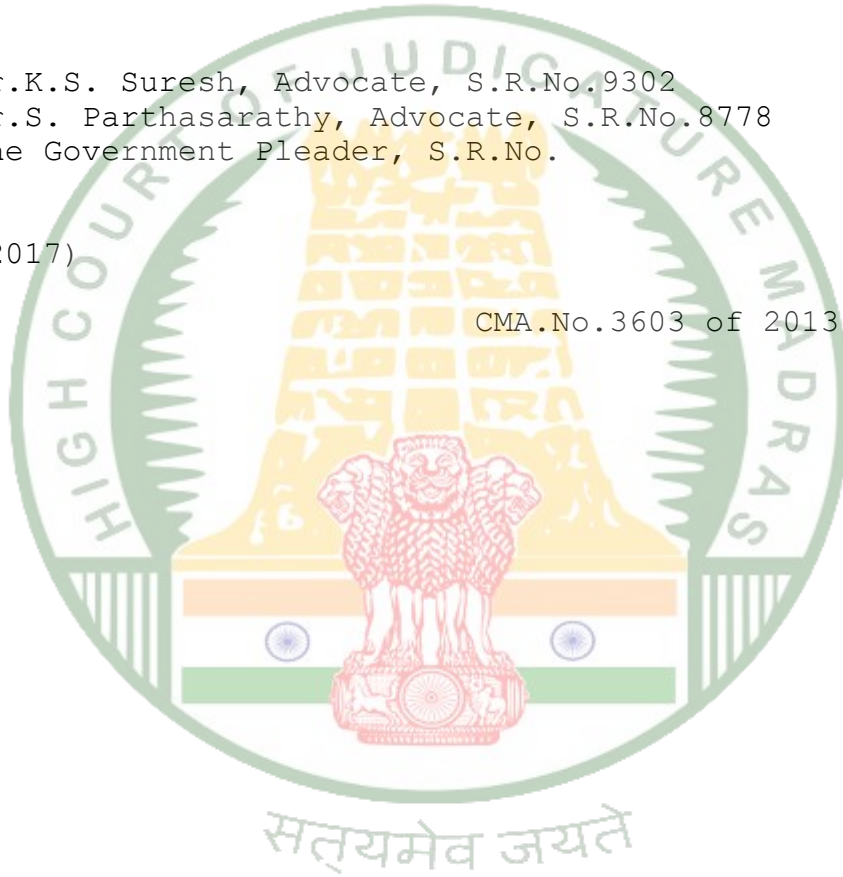
To:

1.The V Judge,
Motor Accident Claims Tribunal
V court of Small Causes
Chennai.

+1cc to Mr.K.S. Suresh, Advocate, S.R.No.9302
+1cc to Mr.S. Parthasarathy, Advocate, S.R.No.8778
+1cc to the Government Pleader, S.R.No.

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