

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2017

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

C.M.A.No.1871 of 2017
(C.M.A.No.SR7865 of 2008)
and
C.M.P.No.10096 of 2017

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Division – I, No.37, Mettupalayam Road,
Coimbatore

.. Appellant

Versus

1.Y.Nirmala
2.P.Yesudass

.. Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the Decree and Judgment in M.A.C.T.O.P.No.177 of 2005 dated 23.03.2006 passed by the Motor Accident Claims Tribunal cum Additional District Court (Fast Track Court No.1), Erode.

For Appellant

: Mr. N. Anand

JUDGMENT

This appeal has been filed by the transport Corporation challenging the award dated 23.03.2006, passed in M.C.O.P. No.177 of 2005 on the file of Additional District Court and Fast Track Court No.1, Erode

2. Along with this appeal, a petition has been filed to condone the delay of 459 days. Both the petition for condonation of delay as well as Civil Miscellaneous Appeal are taken up together for disposal on merits. As the appeal is to be dismissed, there is no prejudice, if the delay is condoned.

Accordingly, the delay was condoned.

3. The claimant, Nirmala, wife of Late Yuvaraj, aged 35, earning a sum of Rs.4,000/- by doing a private business, claimed a sum of Rs.3,00,000/- as compensation for the injuries sustained by her in an accident. The Tribunal on consideration of materials placed before it, awarded a sum of Rs.63,190/-. Challenging the award as disproportionate and excessive, the transport corporation has filed this appeal.

4. The main ground on which the appeal is filed by the transport Corporation is the amount awarded by the Tribunal under various head are excessive. The further contention is that the Tribunal has erroneously accepted the claimant's age, occupation, income and permanent disablement as stated by her in evidence.

4.1 In order to appreciate this contention, it is necessary to find out the details of award.

5. It is stated that even after surgery, there was a malunion due to which the claimant found it difficult to carry weighty objects. The claimant also encountered difficulty in doing her daily activities because of restriction in the movement as well as malunion in the bones of the right hand. According to Doctor, the claimant suffered fracture on both the bones in the hand, she underwent a surgery during which metal plates have been fixed in the right

hand. The disability has been assessed as 30% by the Doctor. The Doctor also deposed that the claimant may have to incur a sum of Rs.12,000/- towards future medical expenses for removal of metal plates fixed in her right hand.

6. The Tribunal awarded a sum of Rs.30,000/- towards disability by taking into consideration the disability of 30% suffered by the claimant. The Tribunal also awarded Rs.10,000/- towards pain and suffering. Further, a sum of Rs.1,000/- towards Transport expenditure and Rs.2,000/- towards extra nourishment were awarded. Even though the claimant claimed that she was earning a sum of Rs.4,000/- per month, the Tribunal has taken Rs.2,400/- per month as the monthly income. A sum of Rs.1,200/- towards loss of income for the period of her treatment in the hospital for 15 days as an in-patient in K.M.C. Hospital, Coimbatore has been awarded.

7. A further sum of Rs.27,000/- was awarded by the Tribunal towards loss of amenities. A sum of Rs.55,180/- was awarded by the Tribunal towards medical expenditure is based on medical bills. Thus, a sum of Rs.1,26,380/- was awarded by the Tribunal as compensation. Out of the total amount of Rs.1,26,380/- after deducting 50% of the compensation amount towards negligence of the claimant, the Tribunal only awarded a sum of Rs.63,190/- to the claimant. The amount awarded by the Tribunal in favour of

the claimant. It cannot be said to be excessive or disproportionate to the injuries sustained by the claimant in the accident. Hence, the appeal is dismissed. Consequently, miscellaneous petition is also closed. No costs.

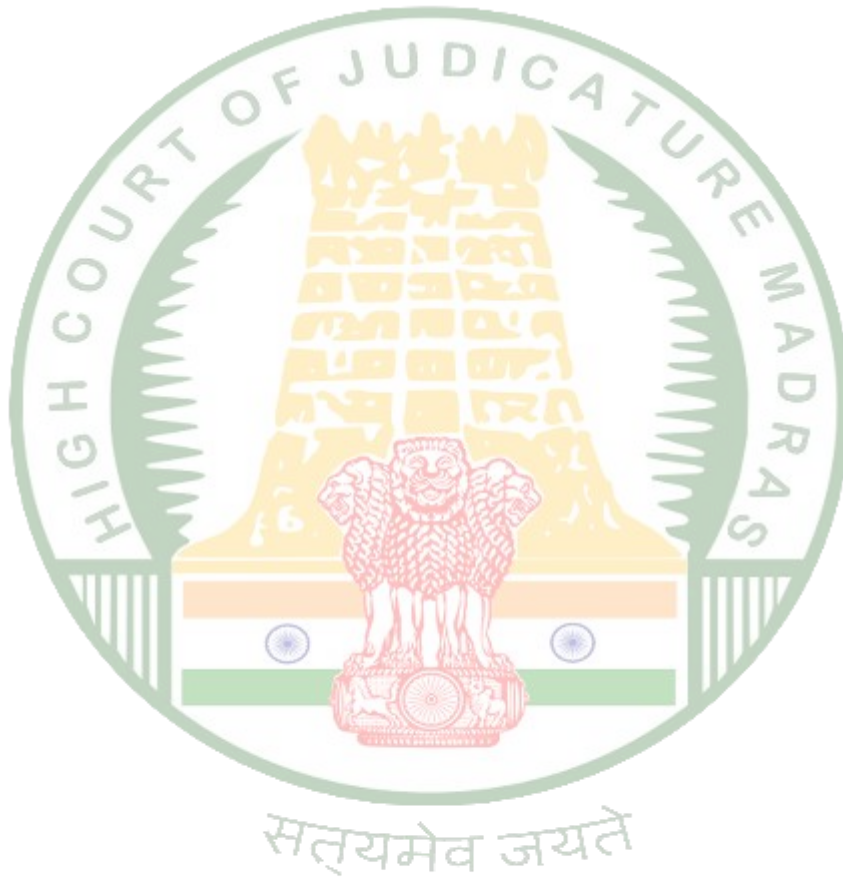
8. The appellant / Transport Corporation is directed to deposit the entire award amount, along with interest and costs as ordered by the Tribunal, less the amount already deposited, if any before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment, On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimant, through RTGS within a period of two weeks thereafter, if not already withdrawn by the claimant.

16.06.2017

Index : Yes/No
Internet:Yes/No
Speaking / Non speaking
vsi2

To

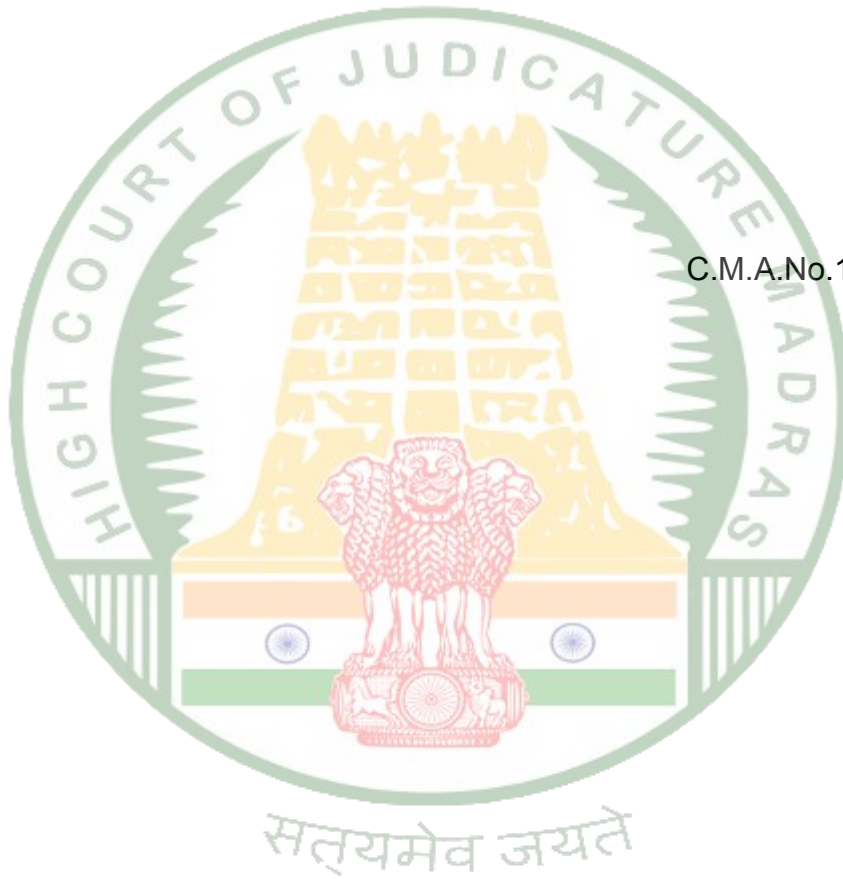
- 1.Motor Accident Claims Tribunal cum Additional District Court (Fast Track Court No.1), Erode.
2. The Section Officer,
V.R. Section,
High Court, Madras – 104.



WEB COPY

Dr.S.VIMALA, J.

vsi2



C.M.A.No.1871 of 2017

16.06.2017

WEB COPY