

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2017

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. No.1842 of 2017
(CMA SR No.16715 of 2008)
and
C.M.P. No.9914 of 2017

The Managing Director
M/s.Cholan Transport Corporation Ltd.
Now known as
Tamil Nadu State Transport Corporation Ltd.
Kumbakonam .. Appellant

Versus

1.Kamala
2.K.P. Abdul Rahman (Given up)
3. The Branch Manager,
M/s. National Insurance Co. Ltd.
No.34, Nehruji Road, 1st Floor,
Villupuram Branch, Villupuram. ... Respondents

PRAYER : Civil Miscellaneous Appeal as against the decree and judgment in M.A.C.T.O.P. No.1625 of 1998, dated 22.07.2005 passed by the Motor Accident Claims Tribunal (3rd small causes Court), Chennai.

For Appellant : Mr. N.Anand

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Transport Corporation, as against the judgment and decree in M.A.C.T.O.P. No.1625 of 1998, dated 22.07.2005.

2. The Claimant, Kamala, petitioner in M.C.O.P.1625 of 1998, aged 63, a self-employed, earning a sum of Rs.2,000/- per month, met with an **accident that took place on 05.05.1997**. In the accident the petitioner (first respondent herein) suffered fracture in the right leg, amputation of left leg and abrasions all over the body and in forehead and grievous injury in chest.

3. Claiming a compensation of a sum of Rs.5,00,000/-, the claimant has filed the said MCOP. The Tribunal, on a consideration of the materials placed on record, has awarded a sum of Rs.1,70,000/-. The breakup details of the award reads thus:-

Loss of income	-	Rs. 5,000/-
Transportation expenses	-	Rs. 2,000/-
Extra Nourishment	-	Rs. 3,000/-
Medical expenses	-	Rs. 55,000/-
Permanent disablement	-	Rs. 80,000/-
Pain and sufferings	-	Rs. 25,000/-

		Rs.1,70,000/-

4. A perusal of the award passed by the Claims Tribunal would go to show that the petitioner / claimant / first respondent herein has admitted that originally, she had taken First Aid Treatment at Government Hospital, Villupuram, and later, she had taken treatment, as inpatient, at Government Hospital, Royapettah,

Chennai, and further taken treatment at Saint Thomas Hospital, as inpatient, from 31.07.1997 to 07.08.1997. There was amputation of left leg below knee. Hence, the doctor has certified the disability at 60%.

5. Further, the Doctor has stated that there is restriction in movement of left leg of the injured, due to the accident and therefore, the disability at 20% has been fixed for this disablement. Thus, considering the overall circumstances, the Tribunal has awarded a sum of Rs.1,70,000/- as compensation to the claimant.

6. It is relevant to point out that in respect of 80% of disability, the Tribunal has awarded a sum of Rs.80,000/-. The multiplier method has not been adopted, while quantifying the compensation on account of loss of earning capacity. When the claimant was aged 63, and has suffered amputation, the Tribunal ought to have considered quantifying the compensation by applying the multiplier method, but that has not been considered.

7. The accident had taken place about three decades before. The injured also has not filed any appeal. Therefore, at this distant point of time, it may not be appropriate to enhance the quantum of

compensation. The contention of the appellant that the award of Rs.1,70,000/- in a case of amputation is excessive cannot be countenanced. The Appeal has no merits and thus, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

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.

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Index : Yes / No
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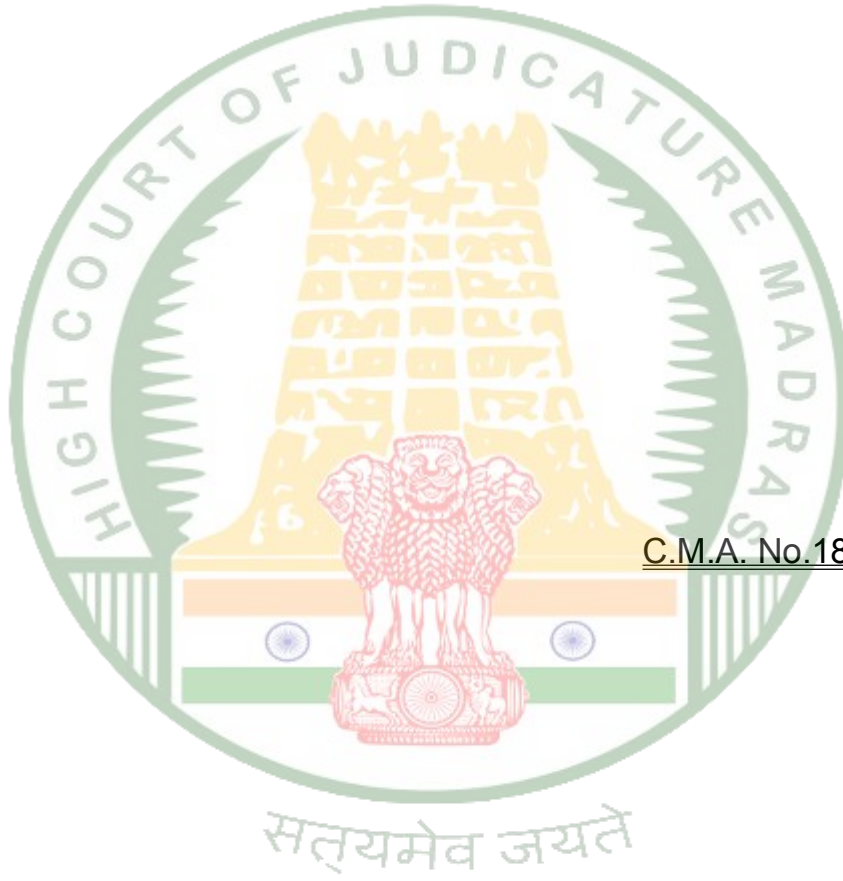
1. The Motor Accident Claims Tribunal (3rd small causes Court),
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras – 104.



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Dr.S.VIMALA, J.

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