

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2017

CORAM:

THE HON'BLE DR.JUSTICE.S.VIMALA

Civil Miscellaneous Appeal No.2074 of 2017
and C.M.P.No.11060 of 2017

Tamil Nadu State Transport (Corporation)
Rep. by its Managing Director (Villupuram) Ltd.,
Villupuram, Regional Office at Origai,
Kancheepuram, Kancheepuram District ... Appellant

Vs

1. Perumal
2. Loganathan ... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1989, to set-aside the decree and Judgment, dated 08.06.2016 made in MCOP No.132 of 2015 on the file of Motor Accident Claims Tribunal, Sub Court, Gudiyatham, Vellore District.

For Appellant : Mr. P.Paramasivadoss

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Transport Corporation, challenging the quantum of compensation awarded to the claimant.

2. The claimant, Perumal, a business-man, earning a sum of Rs.15,000/- per month, aged 30 at the time of accident, suffered permanent disablement on account of the injuries sustained by him in an accident, involving the bus belonging to the appellant Corporation.

3. The Tribunal, on a consideration of the materials, has awarded a sum of Rs.3,84,204/-, as compensation. Challenging the quantum of compensation as disproportionate to the injuries suffered, the Corporation has filed this Appeal.

4. The main contention raised by the learned counsel for the appellant / Corporation is that, when there is no proof for income, fixing the income at Rs.6,000/- and award of Rs.1,25,000/- towards loss of earning capacity is excessive.

5. The contention raised require the examination on the parameters based on which the Tribunal has passed the award.

6. The Tribunal has relied upon the evidence of the claimant as well as the Doctor, who certified the disablement at 50%. The claimant has taken treatment at Apollo Hospitals, Chennai, where implant has been used during the surgery in respect of fracture of both the bones in the left hand. Apart from that, tracheotomy has been done and the surgery has been performed for the contusions / haemorrhage in the brain.

7. On account of those disablements, it is the case of the claimant that there is total loss of memory and the claimant has continuously been in medication for the purpose of avoiding fits.

8. When it is stated that when the claimant is suffering from loss of memory and that he is likely to be the victim of the fits, nobody can expect that he can go outside and earn money. In such circumstances, the Tribunal has accepted the evidence of the Doctor that the claimant suffered disablement of 50% and has chosen to award a consolidated sum of Rs.1,25,000/- towards the loss of memory and loss of earning capacity.

9. It is relevant to point out that the Tribunal has not adopted the multiplier method of quantification for the purpose of calculating the compensation. The medical expenses itself has been to the tune of Rs.1,48,204/-. Considering the nature of injury, period of treatment and the nature of sufferings by the claimant, the Tribunal has awarded a sum of Rs.20,000/- towards cost of attendant, Rs.40,000/- towards pain and sufferings, Rs.10,000/- towards transport expenses and Rs.36,000/- towards loss of income for six months and Rs.5,000/- towards extra nourishment, totalling to the tune of Rs.3,84,204/-.

10. This Court is of the view that the award passed by the Claims Tribunal under each and every head is reasonable and commensurate with the injuries sustained and expenses incurred by the claimant.

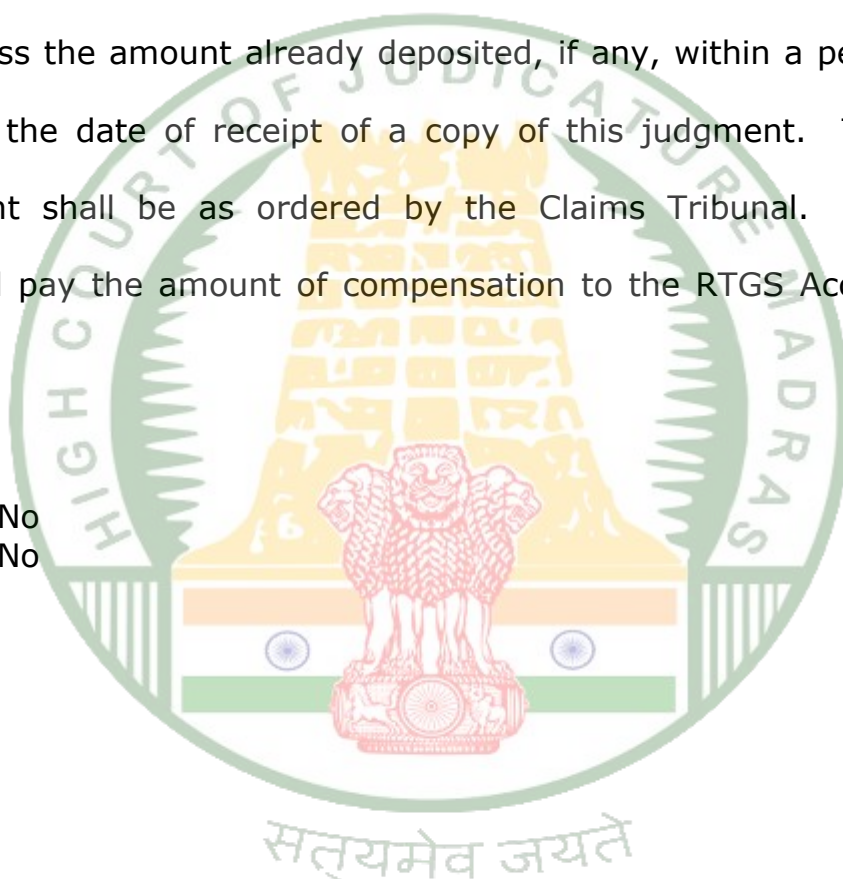
11. In fine, the Appeal has no merits and therefore, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected

CMP is closed.

12. The Transport Corporation shall deposit the entire compensation amount, as awarded by the Claims Tribunal and as confirmed by this Court, along with interest at 7.5% per annum, from the date of petition till the date of deposit, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. The ratio of apportionment shall be as ordered by the Claims Tribunal. The Claims Tribunal shall pay the amount of compensation to the RTGS Account of the claimants.

Index: Yes / No
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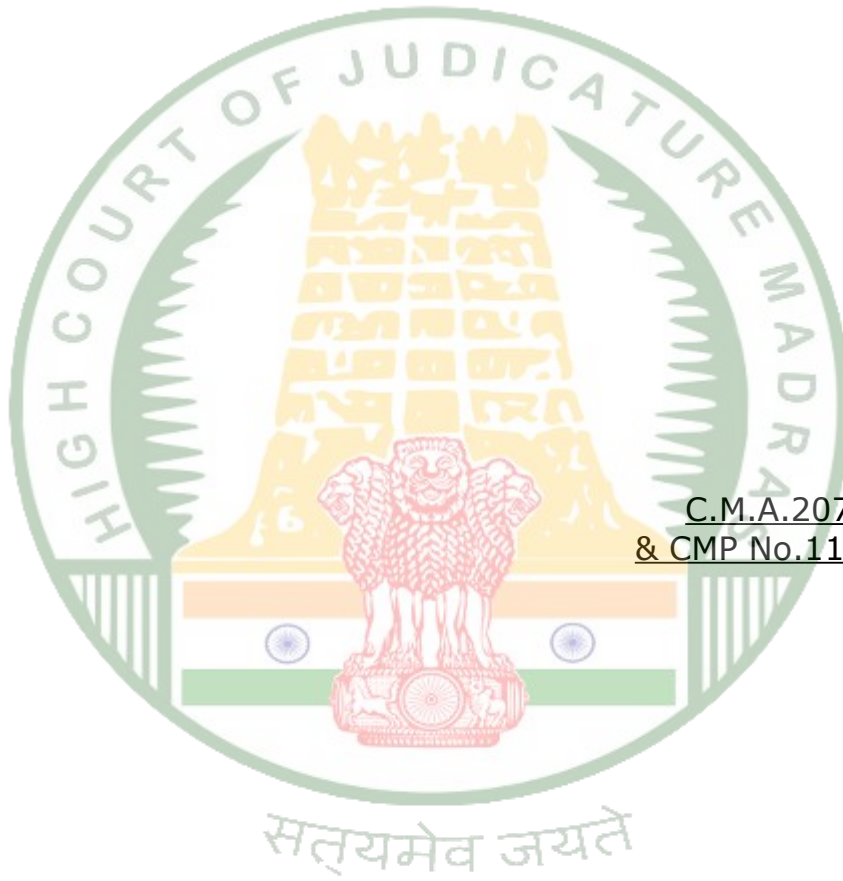
1. Motor Accident Claims Tribunal, Sub Court, Gudiyatham, Vellore District.
2. The Section Officer, V.R.Section, Madras High Court, Chennai - 104



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Dr. S.VIMALA, J.,

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