

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2177 of 2017
and
C.M.P.No.11516 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Kumbakonam. ..Appellant/Respondent

/Vs/

Kasinathan .. Respondent/Petitioner

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 01.03.2004 made in M.C.O.P.No.69 of 2003 on the file of the Motor Accident Claims Tribunal, (Principal Sub Judge, Nagapattinam).

For Appellant : Mr.S.V.Vasanthakumar

JUDGMENT

As against the claim made for a sum of Rs.3,00,000/-, the tribunal has passed an award for a sum of Rs.45,000/-. Challenging the same, the transport Corporation has filed this appeal.

2. The claimant, Kasinathan, aged 40 years, an Agriculturist and cattle grazer, earning a sum of Rs.5,000/- per month, met with an accident on 27.03.2002. According to the claimant, he suffered fracture of two bones on the left side of the rib, fracture of neck bone, apart from lacerated injuries all over the body.

3. The claimant filed a claim petition claiming a sum of Rs.3,00,000/- as compensation before the Motor Accident Claims Tribunal at Nagapattinam in MCOP No.69 of 2003. The Tribunal, on consideration of oral and documentary evidence, has passed an award for a sum of Rs.45,000/-. The break-up details and the reasons for the award would be evident from the following details of the award passed.

3.1. The tribunal has taken into account, Accident Register copy, which was marked as Ex.P3, under which, it is stated that the claimant suffered fracture of the second and fourth rib bones. He had also suffered fracture of neck bone and the doctor has certified the disability at 31%. The Tribunal has given a finding that the evidence of the doctor with regard to the permanent disablement is an exaggerated evidence. Therefore, the Tribunal did not accept the contention that there was future loss of earning capacity. Considering that there had been fracture of two bones, a sum of Rs.40,000/- has been awarded and consolidated amount of Rs.5000/- has been awarded towards pain and sufferings, medical expenses and transport expenses. Total compensation of Rs.45,000/- has been awarded.

4. The learned counsel appearing for the appellant would submit that when the tribunal did not accept the evidence of the doctor, award of a sum of Rs.45,000/- is excessive.

5. The fact remains that the fracture of rib bones as well as fracture of neck bone would affect the earning capacity of the claimant, as an agriculturist and cattle grazer. The accident register copy filed would have given the necessary input regarding the nature of injury sustained. From the nature of the injury sustained, the inevitable conclusion that it would have consequence upon the earning capacity of the claimant. Therefore, the award of a sum of Rs.45,000/- cannot be said to be excessive, not even in the year 2002 and certainly not in the year 2017. (Considering the cost of commodities in the year 2017). The appeal has no merits and the same is dismissed confirming the award of the tribunal. No costs. Consequently, connected miscellaneous petition is closed.

6. The appellant/Transport Corporation is directed to deposit the entire award amount along with interest at 9% from the date of petition till the date of deposit and costs, 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.

Sd/-
Assistant Registrar(CS VII)

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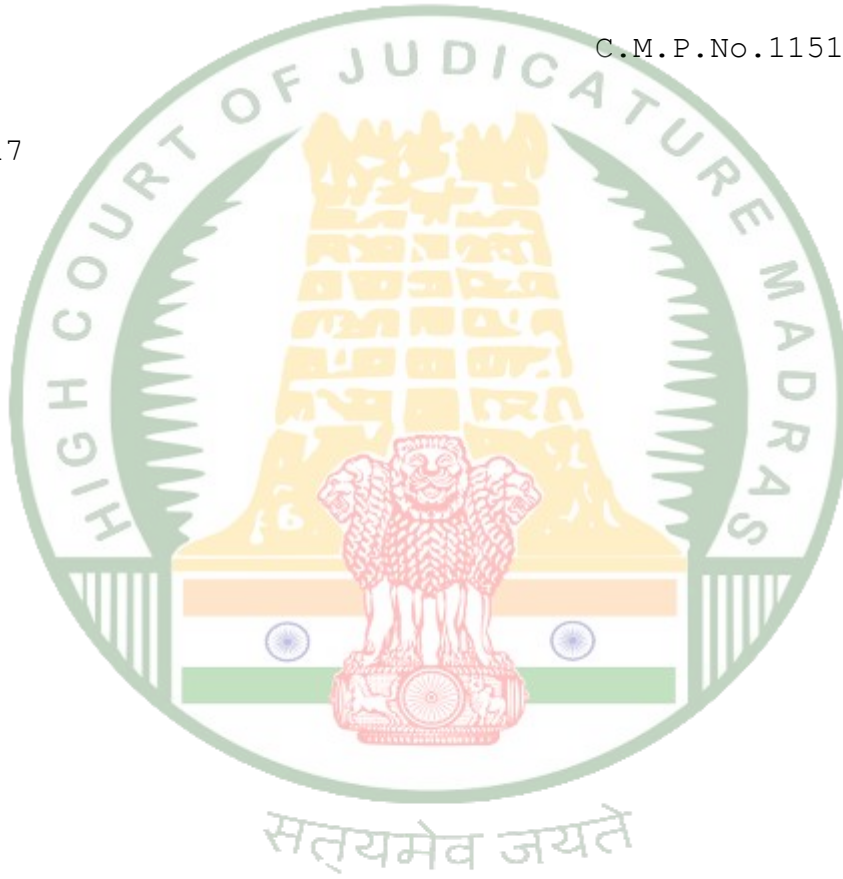
Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,
(Principal Sub Judge, Nagapattinam).

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and
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SJ(CO)
eu 13.09.17



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