

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2599 of 2017
and
C.M.P.No.14252 of 2017

The Managing Director,
 Metropolitan State Transport
 Corporation Ltd.,
 Pallavan House, Pallavan Salai,
 Chennai - 600 002.

.. Appellant

Fathima

/Vs/

.. Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 16.04.2004 made in M.C.O.P.No.928 of 2000 on the file of the Motor Accidents Claims Tribunal, (III Judge, Small Causes Court), Chennai.

For Appellant : Mr.S.V.Vasantha Kumar

JUDGMENT

Fathima, claimant in M.C.O.P.No.928 of 2000, met with an accident on 25.01.2000 and she suffered fracture of pelvic bone, as well as 7th & 8th rib bone fracture and she took treatment as

inpatient for 4 days i.e. from 25.01.2000 to 28.01.2000. Thereafter, she has been taking treatment for a period of three months at ESI hospital and she was discharged from the ESI Hospital on 02.04.2000. The Doctor, who treated her and certified her disability, has been examined as PW2 and she has spoken about malunion of rib bone as well as Pelvic bone and there has been restriction in the movement.

2. Considering the disablement suffered, the tribunal has quantified the compensation under the following break-up details;

Loss of income	:	Rs.4,000/-
for a period of two months		
Transport expenses	:	Rs. 250/-,
Extra Nourishment	:	Rs.1,000/-,
Pain and suffering	:	Rs.10.000/-,
partial permanent disablement :		Rs.35,000/-
loss of earning capacity	:	Rs.5,000/-

Total compensation Rs.55,250/-

Medical expenses are not awarded on the ground that she took treatment only in ESI hospital, which is run by Government.

3. The learned counsel for the appellant would submit that the percentage of disablement as spoken to by the Doctor was not accepted by the claims tribunal and therefore, the award of Rs.35,000/- is excessive. The claimant had been an employee of Panharas Association Export, Aminjikarai, Chennai - 29 and she has been earning a sum of Rs.2,000/- per month and pelvic and rib bone fracture would have an impact upon her earning capacity. Even assuming that the percentage of disability was 20% the disablement compensation during the relevant period of time would be at the rate Rs.1,000/- per percentage and in respect of 20% disablement the compensation on that ground would be Rs.20,000/- in respect of pelvic bone fracture and the same amount is awardable for the rib bone fracture. The total amount of compensation would be Rs.40,000/- but what was awarded only Rs.35,000/- and therefore, the award under partial permanent disablement cannot be said to be excessive.

4. Even assuming that the award is excessive in the year 2000 and not in the year 2017, having regard to the escalation in prices and reduction in the money value, the amount cannot be said to be excessive. The appeal has no merits and the same is

dismissed. No costs. Consequently, connected miscellaneous petition is closed.

5. 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 realisation, 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 amount directly to the bank account of the claimant/respondent through RTGS within a period of two weeks thereafter.

03.08.2017

Index : Yes/No
Internet : Yes/No
sms/kv

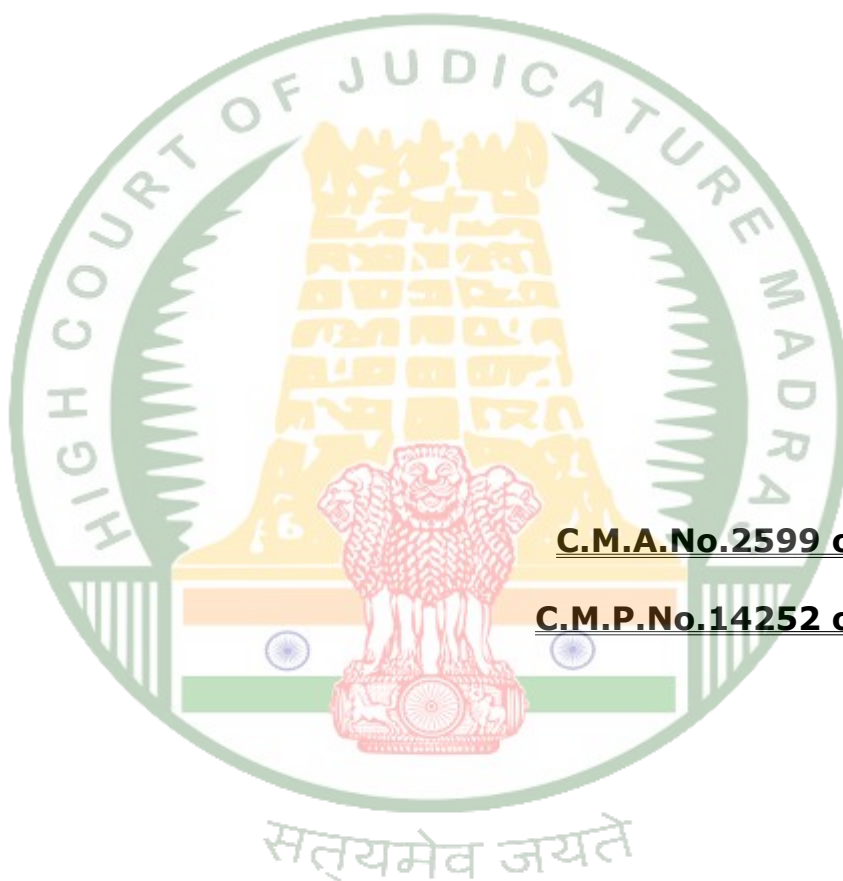
To

1. The Motor Accidents Claims Tribunal,
(III Judge, Small Causes Court), Chennai.

2. The Section Officer, VR Section,
High Court, Madras.

Dr.S.VIMALA,J.

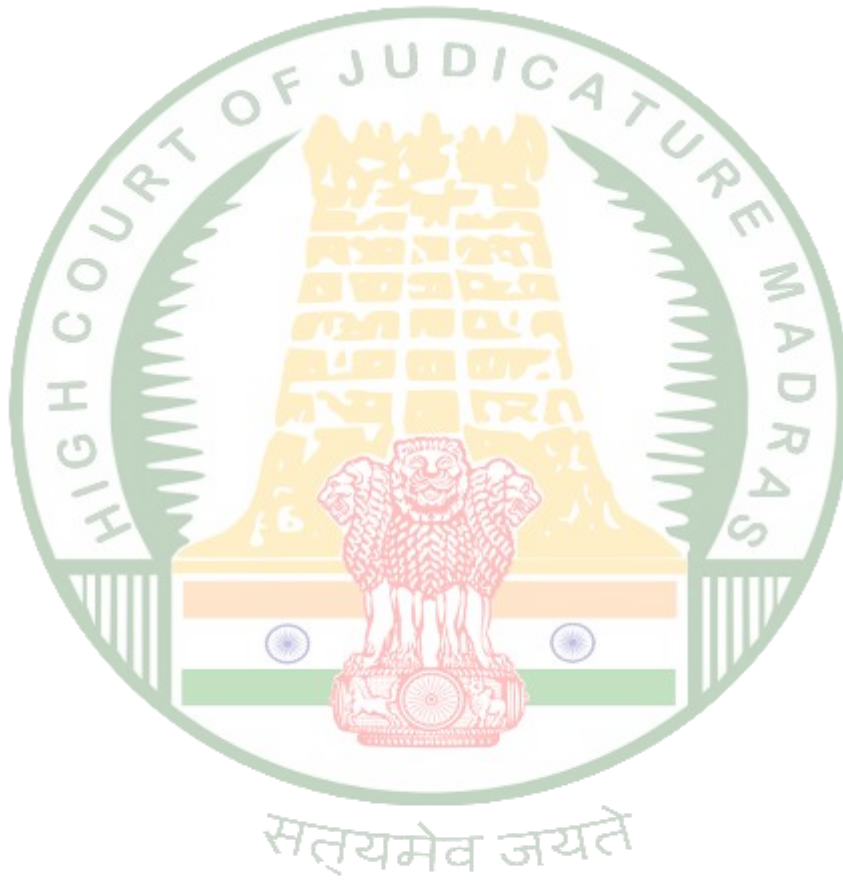
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