

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.09.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2857 of 2017
and
C.M.P. No.16359 of 2017

The Managing Director,
Tamil Nadu State Express Transport
Corporation Ltd.,
Chennai. ... Appellant/Respondent
/Vs/

A.S.Arunkumar ... Respondent /Petitioner

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 15.12.2003 made in M.A.C.T.O.P.No.466 of 1999 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge) at Tirupattur.

For Appellant : Mr.M.Krishnamoorthy

JUDGMENT

The Transport Corporation has filed this appeal, challenging the award of Rs.2,03,000/-, as excessive and unreasonable.

2. The claimant A.S.Arunkumar, aged about 35 years, a driver by profession, earning a sum of Rs.200/- per day, met with an accident on 03.06.1999. Therefore, he filed a claim petition claiming a compensation in a sum of Rs.3,00,000/-.

3. It is the case of the claimant that the accident took place on 03.06.1999 at 10.00 a.m. in Ambur to Vellore Highways road near Agaramcheri main road. When the claimant was travelling in the bus bearing registration No.TN 07 N 9344 from Ambur to Chennai, the driver of the bus drove the bus in a rash and negligent manner and hit against the parking lorry bearing registration No.TSJ 1957. The claimant sustained grievous injuries and he was admitted in the Government hospital, Ambur and then, he took treatment at CMC Hospital, Vellore and continued treatment till the filing of the claim petition.

4. The claimant himself was working as a driver under the

appellant /Transport Corporation and he was maintaining the family from the income. It is his case that he sustained permanent disablement and thereby, loss of earning capacity.

5. Fixing the age of the injured at 35 years and the injuries sustained by him, as evidenced by Exs.P-2 to P-4, taking the daily earnings of the injured at Rs.200/-, the Tribunal, awarded compensation of Rs.2,03,000/- under the following heads :-

Loss of Income	: Rs. 1,00,000 . 00
Transport expenses	: Rs. 1,000 . 00
Extra Nourishment	: Rs. 2,000 . 00
Medical expenses	: Rs. 20,000 .00
Pain and suffering	: Rs. 40,000 .00
Permanent Disability	: Rs. 40,000 . 00

Total	: Rs. 2,03,000 . 00

6. To show that the claimant was employed as a driver, driving license has been filed under Ex.P6. To prove that the claimant is working under the Transport Corporation, the identity card issued by the transport corporation has been filed under Ex.P5.

7. The appeal has been filed by the appellant only questioning the compensation awarded, terming it as excessive and no other grounds have been advanced before this Court.

8. Giving a finding that the transport corporation has not adduced any evidence disputing the negligence of the driver of the driver of the bus, the tribunal fixed the negligence on the part of the transport corporation. The appellant also not having questioned the finding of the Tribunal relating to negligence, the said finding is confirmed.

9. A perusal of the records reveal that the Tribunal, based on the materials available on record, more particularly, the treatment taken by the claimant, the period of treatment and the impact of the injuries on the daily activities of the claimant, has quantified the compensation under various heads. The above quantification has been done based on the materials, which has not been disputed in any manner. Such being the case, this Court is of the considered view that the compensation awarded under the various heads cannot be termed to be excessive or unreasonable. The Tribunal has given cogent and convincing reasons for awarding the compensation, which is based on materials. Therefore, this Court is of the considered view that no interference is called for with the well considered findings and award of the Tribunal.

10. For the reasons aforesaid, the appeal is dismissed confirming the award passed by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

11. It is submitted by the learned counsel for the Transport Corporation that the entire award amount has already been deposited and it was withdrawn by the claimant also in the year 2010. The said statement is recorded.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

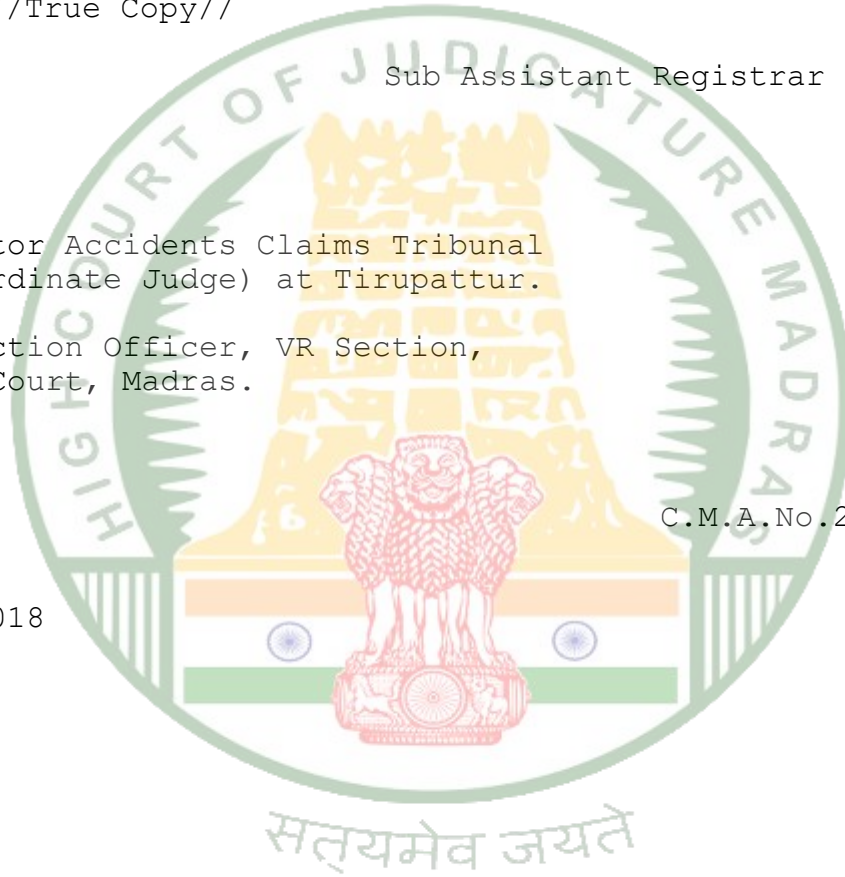
sms/GLN

To

1. The Motor Accidents Claims Tribunal
(Subordinate Judge) at Tirupattur.
2. The Section Officer, VR Section,
High Court, Madras.

C.M.A.No.2857 of 2017

sj(co)
aa21/03/2018



WEB COPY