

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.411 of 2017
and C.M.P.No.2863 of 2017

The Tamil Nadu State Transport
Corporation (Villupuram
Division-I) Ltd.,
Villupuram.

... Appellant / Respondent

versus

A.Ayyanar

... Respondent/Petitioner

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 27.09.2002 made in M.C.O.P.No.177 of 1996 on the file of the Motor Accident Claims Tribunal (Second Additional Judge), Villupuram.

For Appellant : Mr.G.Munirathnam

JUDGMENT

The claimant A.Ayyanar, aged about 35 years, an agriculturist, earning a sum of Rs.2000/- p.m. met with an accident on 24.03.1994 and sustained injuries, in respect of which, he filed a claim petition in M.C.O.P.No.177 of 1996 before the Motor Accident Claims Tribunal (Second Additional Judge), Villupuram, claiming compensation of Rs.70,000/-.

2. As against the claim made for a sum of Rs.70,000/-, the Tribunal has awarded a sum of Rs.39,950/- as compensation, payable with interest at the rate of 9% p.a. from the date of petition till the date of deposit.

3. Contending that the award amount is disproportionate to the injuries suffered by the claimant, this appeal has been filed by the Transport Corporation.

4. It is the contention of the learned counsel for the appellant/Transport Corporation that the discharge summary, treatment records and AR copy should have been marked through the author of the documents and not through the claimants. Yet

another contention is that when no doctor was examined to prove the injuries, the compensation awarded by the Tribunal is excessive.

5. In order to appreciate the contention, it is necessary to consider the claim made by the petitioner, with regard to the nature of injuries and the nature of the disability.

6. It is the case of the claimant that the claimant suffered injury in private part. The injured has been taking treatment as in-patient in the Government Hospital, Thirukovilur, for a period of one week and thereafter, he was taking treatment as out-patient at Rengammal Memorial Hospital. Ex.P2-Accident Register Copy highlight the details regarding the pain and the problem in the private part of the claimant. There had been a surgery for removal of the private part. Therefore, the claimant had been admitted in the hospital on 18.06.1994 and discharged on 07.07.1994, during which, the right side of the private part has been removed. Again, he has been admitted on 11.02.1995 and discharged on 24.02.1995, during which, other part of the private part has been removed. There had been documents to show that the claimant was taking treatment as out-patient on account of injury over the private part.

7. Considering the overall circumstances, the Tribunal has quantified the compensation awarding Rs.20,000/- towards injury and Rs.1800/- towards medical expenses supported by medical bills; Rs.1000/- towards transport expenses; Rs.2000/- towards pain and sufferings.

7.1. In the very same accident, one bullock died and in respect of the same postmortem report has been filed. In respect of the loss of bullock, a sum of Rs.5000/- has been awarded.

7.2. There had been damage to the cart and in order to repair, Rs.10,000/- has been spent. In respect of the damage to cart, a sum of Rs.10,150/- has been awarded and the total award is Rs.39950/-. When the claim amount is covering the damage to cart, damage to bull as well as the injury suffered by the claimant over the private part, the amount awarded cannot be claimed to be excessive and the appeal has no merits.

8. Hence, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 27.09.2002 passed in M.C.O.P.No.177 of 1996 by the Motor Accident Claims Tribunal (Second Additional Judge), Villupuram.

9. The Transport Corporation shall deposit the entire amount of compensation, along with interest at the rate of 9% p.a. from the date of petition till the date of deposit, less

the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimant is permitted to withdraw the same. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

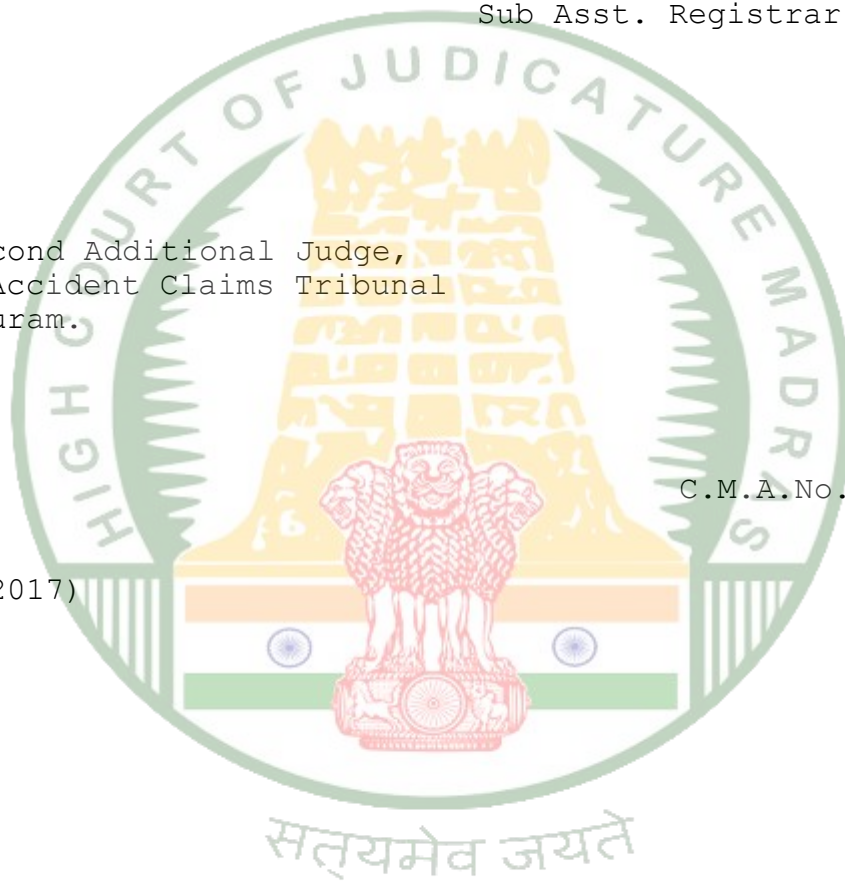
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To

1. The Second Additional Judge,
Motor Accident Claims Tribunal
Villupuram.

C.M.A.No.411 of 2017

VGII(CO)
VR(01/08/2017)



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