



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.398 of 2016
and
CROS.OBJ (MD) No.36 of 2017
and
C.M.P. (MD) No.5484 of 2016

C.M.A. (MD) No.398 of 2016:

The Managing Director,
Tamil Nadu State Transport Corporation,
Thirumayam Road, Pudukkottai.

... Appellant

Vs.

Tamil Selvam

... Respondent

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal [Chief Judicial Magistrate Court], Pudukkottai in M.C.O.P.No.143 of 2012 dated 23.07.2014.

For Appellant : Mr.D.Sivaraman

For Respondent : Ms.K.Mahalakshmi for
Mr.R.P.Ramachanthiran

CROS.OBJ. (MD) No.36 of 2017:

Tamil Selvam

... Cross Objector/Respondent

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Pudukkottai.

... Respondent/Appellant

PRAYER: This Cross Objection is filed under Order 41 Rule 22 of C.P.C, against the judgment and decree dated 23.07.2014 made in M.C.O.P.No.143 of 2012 on the file of the Motor Accident Claims Tribunal [Chief Judicial Magistrate Court], Pudukkottai.

For Appellant

: Ms.K.Mahalakshmi for
Mr.R.P.Ramachanthiran

For Respondent

: Mr.D.Sivaraman

**JUDGMENT**

The Claimant Tamilselvan is a farmer by avocation. He met with an accident on 27.12.2011. When he was riding his two wheeler, the bus belonging to the appellant Corporation had hit him. In the resulting accident, the claimant suffered fracture in his thigh. He was admitted in a hospital on 28.12.2011 and he was an inpatient till 18.01.2012. He was again readmitted on 30.04.2012 and discharged on 02.05.2012. The claimant underwent three surgeries. The doctor assessed his Disability at 40%. The Tribunal awarded a compensation of Rs.4,16,600/-.

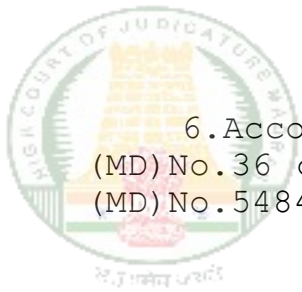
2.Contending that this is excessive, the Transport Corporation has filed C.M.A.(MD)No.398 of 2016. The claimant has filed cross objection in CROS.OBJ.(MD)No.36 of 2017.

3.The compensation payable to claimant can be re-worked as under:-

Sl.No	Heads	Amount in Rupees
1.	Disability compensation 40%	Rs.1,20,000/-
2.	Medical expenditure including future expenses	Rs. 2,07,600/-
3.	Loss of income	Rs. 25,400/-
4.	Pain and suffering	Rs. 50,000/-
5.	Attender Charges	Rs. 30,000/-
6.	Extra Nourishment	Rs. 18,000/-
7.	Transportation	Rs. 10,000/-
	Total	Rs.4,61,000/-

4.The compensation payable to the claimant is enhanced from Rs.4,16,600/- to Rs.4,61,000/-. Therefore, the award dated 23.07.2014, passed in M.C.O.P.No.143 of 2012 on the file of the Chief Judicial Magistrate, Pudukkottai / Motor Accident Claims Tribunal is modified.

5.The appellant Transport Corporation is directed to deposit the entire award amount of Rs.4,61,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization and costs, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the same, less the amount already withdrawn by him, if any, by filing an application before the Tribunal.



6. Accordingly, C.M.A. (MD) No. 398 of 2016 is dismissed. CROS.OBJ. (MD) No. 36 of 2017 is partly allowed. No costs. Consequently, C.M.P. (MD) No. 5484 of 2016 is closed.

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Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate Court,
Motor Accident Claims Tribunal,
Pudukkottai.

Copy to :

The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+2cc to Mr.D.Sivaraman, Advocate, SR.No.93088 & 93083.

+1cc to Mr.R.P.Ramachanthiran, Advocate, SR.No.92926.

C.M.A. (MD) No. 398 of 2016
and
CROS.OBJ (MD) No. 36 of 2017
14.12.2017

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RAM/RSK/SAR 2/12.07.2018/3P/7C