

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2289 of 2015

Muthu

.. Appellant/Claimant

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Chennai - 02.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the awarded dated 18.12.2014 made in M.C.O.P.No.5967 of 2012 on the file of the Motor Accidents Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondent : Mr.K.S.Suresh Kumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 18.12.2014 made in M.C.O.P.No.5967 of 2012 on the file of the Motor Accidents Claims Tribunal, III Small Causes Court, Chennai.

2.The appellant is claimant in M.C.O.P.No.5967 of 2012 on the file of the Motor Accidents Claims Tribunal, III Small Causes Court, Chennai. He has filed the above claim petition claiming a sum of Rs.6,00,000/- as compensation for the injuries sustained by him in the accident that took place on 06.05.2012.

3.The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred only due to the rash and negligent driving by the driver of the bus belonging to the respondent/Transport Corporation. The Tribunal appreciating the evidence let in by the appellant with regard to nature of injuries, awarded a total sum of Rs.40,000/- as compensation to the appellant.

4.Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal for enhancement of compensation.

5.The learned counsel appearing for the appellant contended that P.W.2/Doctor has certified and deposed that the appellant has suffered 25% disability, but the Tribunal did not award any amount under this head. The Tribunal erred in not awarding compensation under different heads and the compensation awarded under consolidated basis is not correct. Hence, he prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the respondent/Transport Corporation contended that the accident occurred only due to the rash and negligent driving by the appellant and the injury sustained by the appellant is only a simple injury. The Tribunal has rightly awarded consolidated amount of compensation and prayed for dismissal of the appeal.

7.Heard the learned counsel for the appellant as well as the respondent and perused the materials available on record.

8.From the materials available on record, it is seen that PW2/Dr.Mathiazhagan has certified that the appellant sustained 25% partial permanent disability. He also deposed that the nature of injury sustained by the appellant and the petitioner was given only conservative treatment. The Tribunal did not accept the evidence of PW2 and the disability certificate issued by him. Considering the nature of injuries sustained by the appellant, the Tribunal has awarded a consolidated sum of Rs.40,000/- as compensation and has given reason for the same. The contention of the learned counsel for the appellant is without merit in the facts and circumstances of the case. There is no error in the said order warranting interference by this Court for enhancement of compensation.

9.In the result, the Civil Miscellaneous Appeal is dismissed. The respondent/Transport Corporation is directed to deposit entire amount awarded by the Tribunal along with accrued interest and costs, less the amount deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant is

permitted to withdraw the entire award amount, less the amount, if any, already withdrawn. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kj/arb

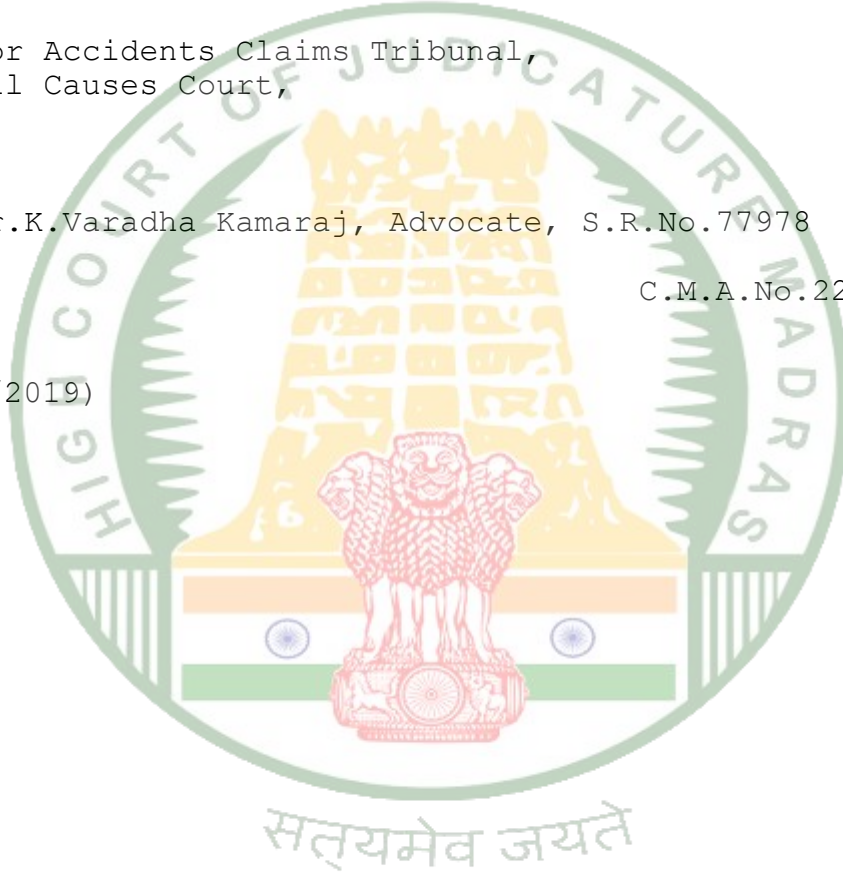
To

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

+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.77978

C.M.A.No.2289 of 2015

VD(CO)
GSP(28/01/2019)



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