

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:04.01.2018
CORAM

The Honourable Mr. Justice S.BASKARAN

Civil Miscellaneous Appeal No.2690 of 2015
and
M.P.No.1 of 2015

The Managing Director
Tamil Nadu State Transport Corporation Limited,
Periyamilaguparai,
Trichy.

.... Appellant/Respondent

..vs..

Murugan

.... Respondent/Claimant

This Civil Miscellaneous Appeal has filed under Section 173 of Motor Vehicles Act, 1988, against the Fair and decreetal order dated 07.02.2015 made in MCOP.No.1103 of 2013 on the file of the Motor Accident Claims Tribunal/Additional District Judge, Namakkal.

For Appellants : Mr.D.Venkatachalam

For Respondent : Mr.Ma.P.Thangavel

JUDGMENT

This civil miscellaneous appeal arises out of the Judgment and decree dated 07.02.2015 made in MCOP.No.1103 of 2013 on the file of the Motor Accident Claim Tribunal/Additional District Judge, Namakkal.

2. For the sake of convenience, the parties are referred to in this judgment as arrayed before the Tribunal.

3. The petitioner/claimant, namely Murugan, while standing on the left side of the Namakkal - Tiruchy Road, opposite to Sengutuvan Thottam at Vazhavanthi Saththiram on 25.01.2013 at 8.15 p.m., the respondent corporation bus bearing Registration No.TN-45-N-2917 driven in a rash and negligent manner by its driver dashed against him and caused grievous injuries resulting in treatment as inpatient in Ganga Hospital, Coimbatore. The accident occurred only due to the rash and negligent driving of the driver of the bus. Hence, a case was registered against the driver of the bus as evidenced by Ex.P1 first information report. The petitioner claims that he incurred medical expenses

of Rs.1,00,000/- and suffered permanent disability. Hence, the petitioner claims a total compensation of Rs.5,00,000/-.

4. To prove his case, the petitioner has produced the discharge summary Ex.P2 and Medical Bills Ex.P13, X-rays Ex.P7 and Ex.P8 and Photo showing his injury as Ex.P5. The disability certificate given to him produced as Ex.P9. It is clear from the same that the injured suffered 45% disability. According to the petitioner, he was carrying on business and earning a monthly income of Rs.7,500/- and after the accident, he is not able to attend his business resulting in conventional loss to him. Hence, he claims a sum of Rs.5,00,000/- as compensation.

5. Resisting the same, the respondent Transport Corporation filed the counter statement disputing the age, income, nature of injuries, manner of accident and also claim of permanent disability by the petitioner.

6. The Tribunal, after considering the evidence of P.Ws.1 and 2 and the documents marked as Exs.P1 to P9 as well as the oral evidence of the driver of the vehicle who deposed as D.W.1, found the driver of the respondent Corporation Bus responsible for the accident and awarded a sum of Rs.6,24,000/- as compensation and direct the respondent to pay the entire compensation amount within a period of three months from the date of receipt of copy of that order with interest at the rate of 7.5% from the date of petition and till the date of payment. Challenging the said award, the respondent transport corporation has preferred this appeal contending that they are not responsible for the accident and compensation awarded by the Tribunal is on the higher side.

7. The learned counsel for the respondent transport corporation in his argument stated that they are only concerned with the quantum of compensation and do not seriously dispute the negligence aspect. According to him, the trial Court has taken multiplier as 18, but it should be only 17 considering the age of the petitioner. It is further contended by the respondent transport corporation that the calculation arrived at by the Tribunal is not appropriate and accordingly sought for deduction of the total award amount.

8. On the other hand, the learned counsel for the petitioner submitted that the Tribunal has fixed the compensation in a fair and reasonable manner and it needs no interference. However, the learned counsel for the petitioner also stated that the multiplier applied by the trial Court is not correct and it should be only 17 instead of 18 applied by the trial Court. Now, both sides agreed on that aspect and a joint calculation memo is also filed.

9. Considering the materials available on record and the fact that the victim is stated to be still recovering from the injury, considering the age of the injured and also admitted by both sides, the multiplier to be applied for calculating the income should be only 17 and not 18. In such circumstances, the amount awarded by the Tribunal under the head of loss of income and future prospectus is recalculated as follows. Rs.5000/- x 12 x 17 x 45/100 =Rs.5,95,000/-. In other aspects, the award passed by the Tribunal is just and proper. Accordingly, the compensation granted by the Tribunal is modified as follows:-

Sl. No	Heads	Amount
1.	Loss of Income 5000 x 12 x 17 x 45/100	4,59,000.00
2.	Medical Bills	57,969.00
3.	Pain and sufferings	25,000.00
4.	Extra Nourishment	10,000.00
5.	Transportation Expenses	10,000.00
6.	Attender Charges	10,000.00
7.	Loss of amenities	25,000.00
	Total	5,96,969.00

In all other aspects, the amount awarded by the Tribunal under the other heads are confirmed.

10. In view of the above modification, the appellant transport corporation is directed to deposit the entire modified award of Rs.5,96,969/- with interest at the rate of 7.5% p.a. after deducting the amount that has already been deposited by them within a period of six weeks from the date of receipt of copy of this order. On such deposit, the respondent/claimant is permitted to withdraw the entire award amount with accrued interest. The Civil Miscellaneous appeal is allowed in the above said terms. No costs. Consequently, connected M.P. is closed.
rrg

Sd/-

Assistant Registrar(CS V)

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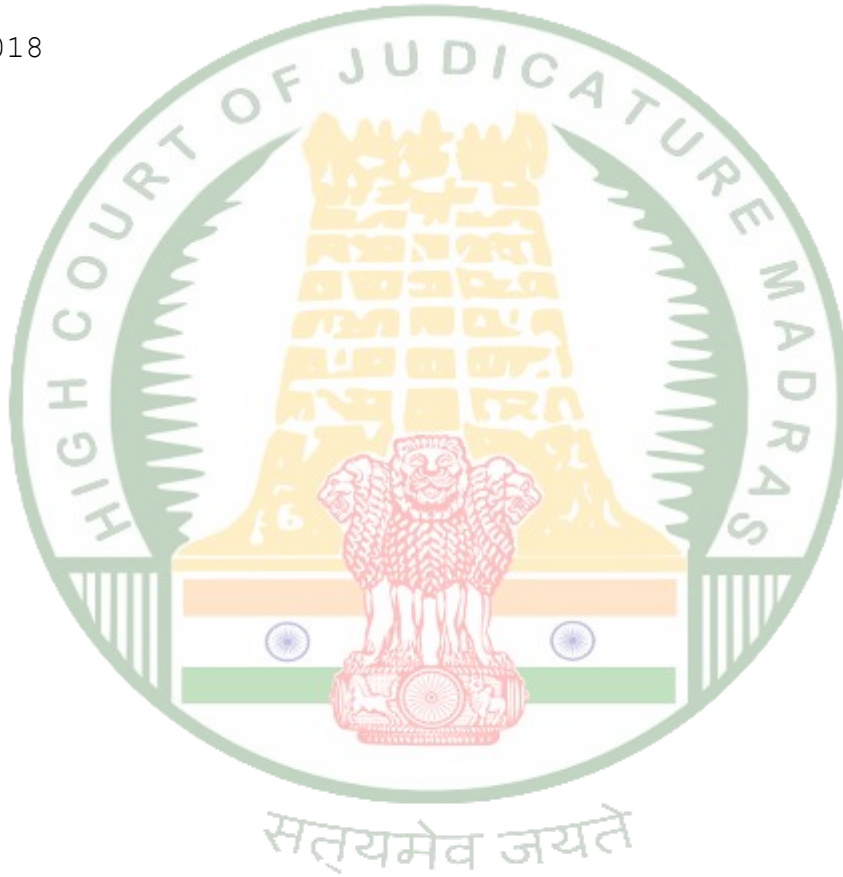
Sub Assistant Registrar

To
The Motor Accident Claims Tribunal
The Additional District Judge,
Namakkal.

+1cc to Mr.D.Venkachalam, Advocate Sr.no.632
+1cc to M/s.Ma.P.Thangavel, Advocate SR.no.628

C.M.A.No.2690 of 2017

GP (CO)
sm:15.2.2018



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