

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.2639 OF 2008

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
No.12, Ramakrishna Road,
Salem - 7. ... Appellant/ respondent

Vs

Perumal ...Respondent/ petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award made in MCOP.No.237 of 2005 dated 18.03.2008 on the file of the Motor Vehicles Accident Claims Tribunal Additional District Judge, Fast Track Court II, at Salem.

For Appellant : Mr.D.Venkatachalam
For Respondent : Mr.K.Kuppusamy

J U D G M E N T

This instant appeal has been filed by the Transport Corporation challenging the quantum of compensation fixed by the tribunal by its Judgement and decree dated 18.03.2008 in M.C.O.P.No.237 of 2005. The brief facts leading to the filing of the instant appeal are as follows:

2. On 21.01.2004, at about 7.45 p.m., when the claimant/respondent who is a tea master, was walking on the left side of the road near Salem Old Bus Stand, a bus bearing registration No.TN27-N-1186 owned by the Appellant/Transport Corporation, dashed against the claimant/respondent, due to the rash and negligent driving by the driver of the bus and. Due to the accident, the claimant/respondent sustained grievous injuries. The claimant/respondent made a claim of Rs.3,00,000/- before the Motor Accident Claims Tribunal and Additional District Judge, Fast Track Court II, at Salem. The Tribunal by its Judgement and decree dated 18.03.2008 awarded a sum of Rs.1,00,000/- as compensation together with interest at the

rate of 7.5% per annum in favour of the Claimant/respondent in the following manner:

Sl. No.	Head	Award of the Tribunal
1	30% Disability	Rs.30,000/-
2	Pain and Sufferings	Rs.5,000/-
3	Extra Nourishment	Rs.5,000/-
4	Transportation	Rs.5,000/-
5	Medical Expenses	Rs.5,000/-
6	Loss of Earning during treatment period	Rs.15,000/-
7	Loss of Amenities	Rs.35,000/-
	Total	Rs.1,00,000/-

3. Aggrieved by the quantum of compensation awarded to the claimant/respondent, the Appellant/Transport Corporation has preferred the instant appeal.

4. Heard, Mr.D.Venkatachalam, learned Counsel for the Appellant and Mr.K.Kuppusamy, learned counsel for the respondent.

5. According to the learned counsel for the Appellant, the primary ground for challenge in the instant appeal is that the Tribunal ought not to have awarded a sum of Rs.35,000/- towards loss of amenities. The learned counsel for the Appellant submitted that this is not a fit case for award of compensation under the head loss of amenities. According to the learned counsel for the Appellant, in respect of all other heads awarded by the Tribunal, the Appellant/Transport Corporation does not have any serious objections.

6. Per contra the learned counsel for the respondent would submit that the respondent/claimant sustained fracture on his left tibia and length of his leg was shortened by half inch. As a result, it would affect the livelihood of the respondent/claimant. The learned counsel for the respondent would also submit that the respondent/claimant was hospitalised from 21.01.2004 to 24.03.2004 and therefore, the compensation awarded by the Tribunal is a just compensation.

7. This court has perused and examined the Award which is under challenge and has also examined the reasons given by the tribunal for awarding the compensation in favour of the respondent/claimant. As seen from the

impugned award, 9 documents were marked as exhibits namely Ex.P1 to Ex.P9 including First Information Report, Accident Register, Medical report and disability certificate on the side of the respondent/claimant. The respondent examined himself as PW1 and examined one doctor as PW2. The Tribunal has also marked 1 document as exhibit on the side of the Appellant / Transport Corporation and examined the driver of the Appellant/ Transport Corporation as RW1.

8. This Court after considering the materials available on record and after examining the Award which is the subject matter of challenge in the instant appeal and after hearing the submissions of the respective counsels, observes the following:

a) The Appellant has failed to establish that it is not a fit case for awarding compensation under the head loss of amenities before the Tribunal by producing any contra evidence.

b) The Appellant does not have any serious objection on the Award passed by the Tribunal in respect of other heads.

9. This Court does not find any infirmity or illegality in the award passed by the Tribunal. Considering the same, this court is of the considered view that the award passed by the tribunal in favour of the respondent is a just compensation. Accordingly, there is no merit in the instant appeal.

10. In the result, the appeal is dismissed. The Appellant is directed to deposit the award amount to the credit of MCOP.No.237 of 2005 on the file of the learned Motor Accident Claims Tribunal (Additional District Judge, Fast Track Court No.2), Salem, awarded by the Tribunal together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation. On such deposit being made, the respondent/claimant is permitted to withdraw the deposited amount by filing necessary application before the Tribunal. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal
(Additional District Judge, Fast Track Court No.2),
Salem.

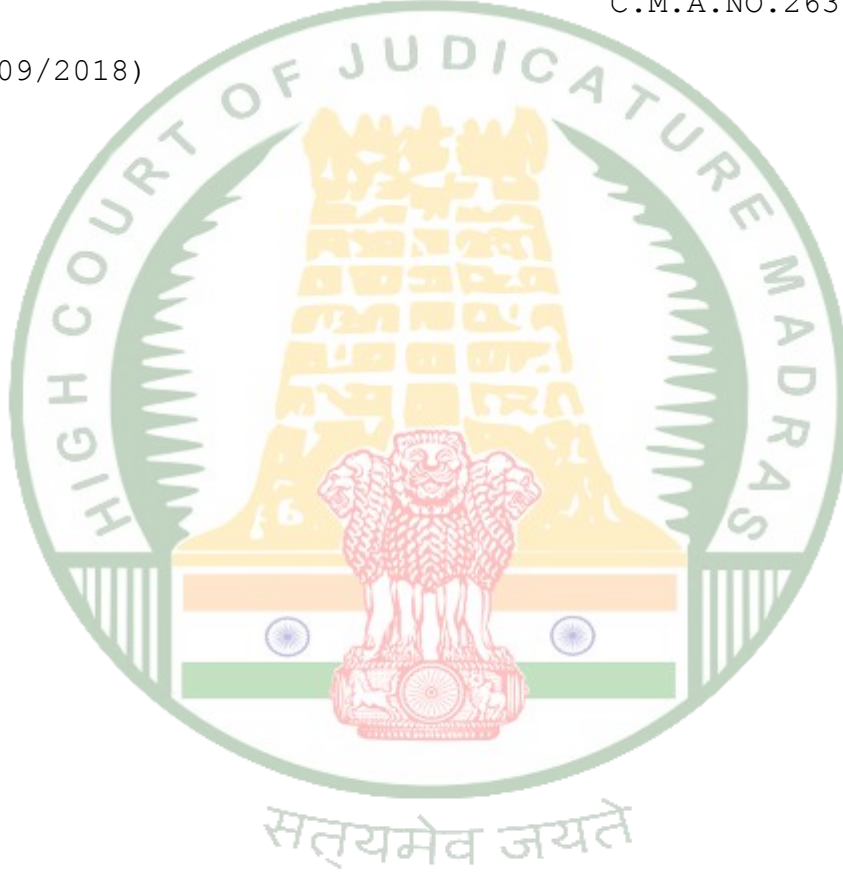
2.The section officer,
VR Section,
High Court, Madras.

+1cc to Mr.D.venkatachalam , Advocate SR.No. 56590

+1cc to Mr.K.Kuppusamy , Advocate SR.No. 57132

C.M.A.NO.2639 of 2008

ASK (25/09/2018)



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