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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.203 of 2018
and
CMP(MD) No.3216 of 2018
CROS.OBJ(MD)No.11 of 2018

The Managing Director
Tamil Nadu State Transport Corporation,
Kumbakonam Ltd.,
Railway Station New road,
Kumbakonam Taluk,
Thanjavur District.

... Appellant in CMA(MD) No.203 of 2018 / Respondent

...Respondent in Cros.Obj(MD)No.11 of 2018 /
Appellant/Respondent

Vs.

G.Senthilmurugan

...Respondent in CMA(MD) No.203 of 2018 / Petitioner

...Cross Objector in Cros.Obj(MD)No.11 of 2018 /
Respondent/Petitioner

PRAYER in CMA(MD) No.203 of 2018: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 21.12.2016 made in MCOP No.439 of 2015 on the file of Motor Accident Claims Tribunal/Special Sub Court, Trichirappalli.

PRAYER in Cros.Obj(MD)No.11 of 2018 : Cross Objection filed under Order 41 Rule 22 of Civil Procedure Code 1908 as amended by Act 104 of 1976, against the Judgment and Decree of the Motor Accident Claims Tribunal/Special Sub Court, Trichirappalli, in M.C.O.P.No.439 of 2015, dated 21.12.2016 and enhance the compensation of Rs.2,00,000/-

For Appellant in CMA and
respondent in Cross objection : Mr.P.Prabhakaran

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondent in CMA and
Cross Objector in Cross objection : Mr.N.Sudhagar Nagaraj

**COMMON JUDGMENT**

The appellant /respondent /Transport Corporation has filed this Civil Miscellaneous Appeal against judgment and decree dated 21.12.2016 passed in MCOP No.439 of 2015 on the file of Motor Accident Claims Tribunal/Special Sub Court, Trichirappalli.

2. The Tribunal has awarded a sum of Rs.8,61,311/- as compensation for the injury sustained by the respondent / claimant. Aggrieved over the same, the appellant/Transport Corporation is before this Court. The respondent / claimant has filed the Cross Objection. As the issues involved in both the petitions are one and the same, they are disposed of by way of this common Judgment.

3. Heard the learned Counsel appearing for the respective parties and perused the records carefully.

4. Though several grounds are raised in the memorandum of grounds, the main ground on which the appellant/Transport Corporation has filed this appeal is on quantum.

5. It is seen from the records that the claimant, in consequence to the accident, sustained grievous injuries; fractures; and had also underwent surgery. From the Doctor's evidence, it is seen that his disability was assessed as 75% and the tribunal has taken 50%. For the said disability, by applying multiplier method a sum of Rs.1,99,311/- was awarded by the tribunal, which, in my considered opinion, is very reasonable. After assessing loss of income by applying multiplier method, loss of income towards treatment period, in my considered opinion is not proper, which is also not disputed by the learned Counsel for the claimant and therefore, the amount awarded towards loss of income towards treatment period is alone set aside and the compensation on all other heads remains unaltered. In result, the compensation towards loss of income during treatment period is deleted.

6. In result, this civil miscellaneous appeal is partly allowed and

- the compensation awarded by the tribunal is reduced by deleting the award granted towards loss of income towards treatment period and the award amount is fixed at Rs.8,10,311/- [Rs.8,61,311/- awarded by the tribunal - Rs.51,000/- reduced by this Court towards loss of income during treatment period].
- The appellant is directed to deposit the sum of Rs.8,10,311/- [Rupees Eight Lakh Ten Thousand Three Hundred and Eleven only] towards compensation with interest @ 7.5%, less the sum already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment.
- On such deposit, the respondent/claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.



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- There shall be no order as to costs.
- Consequently, Cross Objection(MD) No.11 of 2018 is dismissed and connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar

To

- 1.The Special Sub Judge,
Motor Accident Claims Tribunal,
Trichirappalli
- 2.The Record Keeper,
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1cc to Mr.P.Prabhakaran, Advocate, SR.No.64640.

+1cc to Mr.N.Sudhagar Nagaraj, Advocate, SR.No.64825.

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