

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2019

CORAM:

THE HON'BLE MR. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.442 of 2006
and
C.M.P.No.1503 of 2006

The Managing Director,
Tamil Nadu State Transport Corporation
Coimbatore Division No.II Ltd.,
Chennimalai Road, Erode - 2

... Appellant/2nd Respondent

Vs

1. Puthiragounder
2. G.Sundararajan

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1989, to set-aside the decree and Judgment, dated 29.03.2004 made in MCOP No.34 of 2002 on the file of Motor Accident Claims Tribunal, Sub Court, Bhavani.

For Appellant : Mr. S.V.Vasanthakumar

For Respondents: Mr. D.Selvaraju, for R-1.

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Transport Corporation, challenging the quantum of compensation awarded to the claimant.

2. The claimant, Puthiragounder, an agriculturist and doing business on cattle, earning a sum of Rs.4,500/- per month, aged 46 at the time of accident, suffered disablement on account of the injuries sustained by him in an accident, involving the bus belonging to the appellant Corporation.

3. The Tribunal, on a consideration of the materials, has awarded a sum of Rs.2,03,770/-, as compensation. Challenging the quantum of compensation as disproportionate to the injuries suffered by the claimant, the Transport Corporation has filed this Appeal.

4. The main contention raised by the learned counsel for the appellant / Corporation is that when there is no proof for income, fixing the monthly income at Rs.2,000/- and award of

Rs.1,31,040/- towards loss of earning capacity is excessive.

5. The contention raised requires the examination on the parameters based on which the Tribunal has passed the award.

6. The Tribunal has relied upon the evidence of the claimant as well as the Doctor, who certified the disablement at 42%. The claimant deposed that he has taken treatment at P.G.R.Hospital, where surgery has been performed in respect of fractures of bones in the left leg. He further deposed that on account of the said disablement, there is discomfort, while walking and sitting in cross legs and he has continuously been in medication for walking without pain.

7. When it is stated that the claimant is suffering from discomfort in walking and that he is likely to be the victim of falling down often, nobody can expect that he can go outside and earn money as before. In such circumstances, the Tribunal has accepted the evidence of the Doctor that the claimant suffered disablement of 42% and has chosen to award a consolidated sum of Rs.1,31,040/- towards the loss of earning capacity.

8. Further, the medical expenses itself has been to the tune of Rs.31,730/- (based on medical bills produced, Exs.P-9, P-10 and P-14). Considering the nature of injuries, period of treatment and the nature of sufferings by the claimant, the Tribunal has awarded a sum of Rs.1,000/- towards transportation, Rs.25,000/- towards pain and sufferings and Rs.15,000/- towards extra nourishment, totalling to the tune of Rs.2,03,770/-.

9. This Court is of the view that the award passed by the Claims Tribunal under each and every heads is reasonable and commensurate with the injuries sustained and expenses incurred by the claimant.

10. In fine, the Appeal has no merits and therefore, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected CMP is closed.

11. The Transport Corporation shall deposit the entire compensation amount, along with interests and costs, as awarded by the Claims Tribunal and as confirmed by this Court, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit, the Claims Tribunal shall transfer the amount of compensation to the RTGS Account of the claimants.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

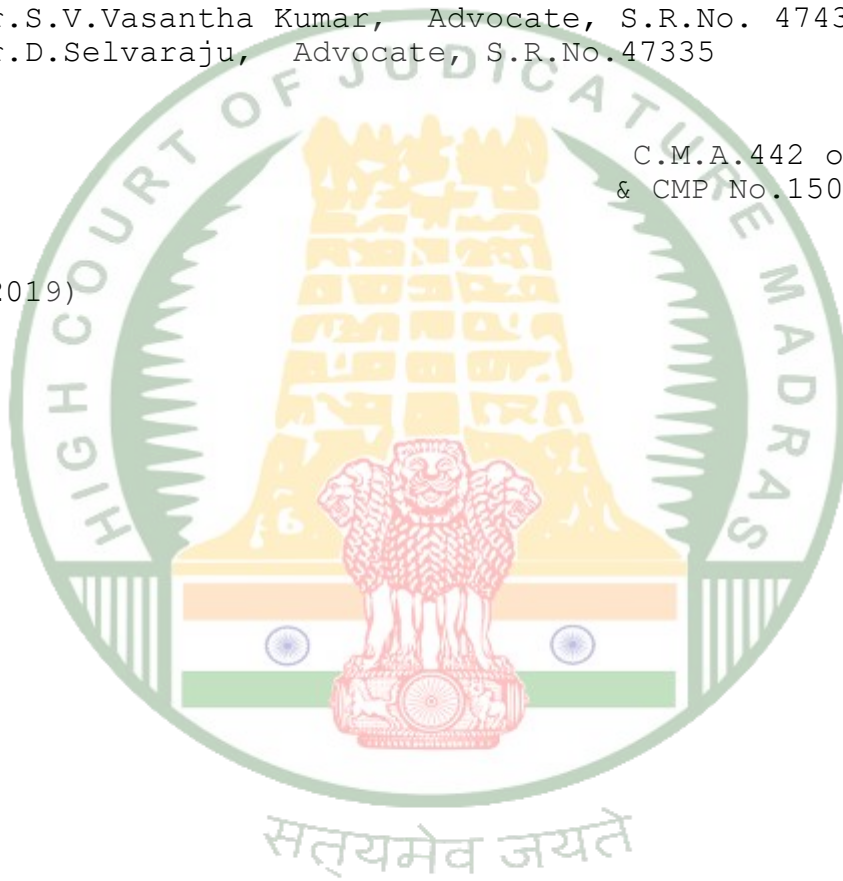
To

1. Motor Accident Claims Tribunal,
Sub Court, Bhavani.
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai - 104.

+1cc to Mr.S.V.Vasanth Kumar, Advocate, S.R.No. 47430
+1cc to Mr.D.Selvaraju, Advocate, S.R.No.47335

C.M.A.442 of 2006
& CMP No.1503 of 2006

VG II(CO)
GN(14/11/2019)



WEB COPY