

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.1230 of 2013

R.Murugan

...Appellant/Petitioner

.Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai, Chennai - 600 002

...Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 05.04.2011 made in M.C.O.P.No. 1001 of 2008 on the file of IV Judge, Motor Accident Claims Tribunal (Small causes Court), Chennai.

For Appellant : Mr.C. Munusamy for M/s.C and K Law firm

For Respondent : Mr.K. Suresh

JUDGMENT

The appellant is the claimant in M.C.O.P.No. 1001 of 2008 on the file of IV Judge, Motor Accident Claims Tribunal/ Court of Small causes, Chennai. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 praying to award a compensation of Rs.3,08,000/- for the injuries sustained by him in a road accident on 16.11.2007.

2. The case of the claimant in nutshell is as follows:

On 16.11.2007, at about 8:10 a.m when the claimant attempted to alight the bus bearing Registration No.TN-01-N-2125 belonging to Tamil Nadu Transport Corporation at Periyar Nagar bus stop, Tharamani 100 feet road, the driver started moving the bus rashly and negligently, as a result of which he fell down and sustained injuries.

3. According to the claimant, the rash and negligent driving of the driver of the bus bearing Registration No. No.TN-01-N-2125 belonging to the respondent/Transport Corporation was the cause of the accident and the Tamil Nadu Transport Corporation is liable to pay Corporation.

4.The learned IV Judge, Court of small causes, Chennai, awarded a sum of Rs.3,08,000/- as compensation with interest at the rate of 7.5% p.a . Not being satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5.Mr.C. Munusamy, learned counsel appearing for the appellant contended that the Tribunal has awarded a sum of Rs.1,70,000/- towards Medical Expenses, while he has actually incurred as expenditure of Rs.2,10,467/- towards his medical treatment as evidenced by the bills(Ex.P4). He also contended that no amount was awarded towards "Loss of amenities" and "attender's charges" and prayed for enhancing the compensation.

6.Mr.K.Suresh, learned counsel appearing for the respondent/Transport Corporation would contend that the award was passed by the Tribunal after considering all the aspects of the case and prayed for dismissal of this appeal.

7.Dr.Thiagarajan (PW2) had assessed the partial permanent disability as 40%. A perusal of the discharge summary issued by the Lifeline Multi speciality Hospital (Ex.P.1) shows that the claimant has sustained the following injuries:

1. Degloving injury in right leg
2. Multiple abrasions

3. Tendons over posterior aspect of right leg.

In the facts and circumstances, a sum of Rs.80,000/- awarded by the Tribunal towards " partial permanent disability" cannot be found fault with. According to the claimant he was aged 27 years on the date of accident and was working in a private concern, earning a sum of Rs.6,000/- per month. The Tribunal fixed the notational income of the claimant as Rs.4,500/- per month, since no proof of income was filed by him. Considering the year of accident, the notational income fixed by the Tribunal is upheld. Eventhough, the claimant has produced medical bills to the tune of Rs.2,10,467/-, the tribunal has awarded only a sum of Rs.1,70,000/- towards medical expenses and therefore a sum of Rs.2,10,467/- is awarded towards " Medical expenses".

8. The award passed by this Court under various heads is extracted hereunder:

S.No.	Head	Amount granted
1.	Loss of income	Rs.27,000/-
2.	Transport to Hospital	Rs.5,000/-
3.	Extra nourishment	Rs.10,000/-
4.	Damage to clothing	Rs.5,00/-
5.	Medical Expenses	Rs.2,10,467/-

S.No.	Head	Amount granted
6.	Pain and sufferings	Rs.20,000/-
7.	Permanent disability	Rs.80,000/-
8	Attendant Charges	Rs.5,000/-
9	Loss of amenities	Rs.25,000/-
	Total	Rs.3,82,967/-

10.Thus, the compensation awarded by the Tribunal is enhanced from Rs.3,08,000/- to Rs.3,82,967/- which would carry interest at the rate of 7.5% per annum.

11.In the result,

(i) The Civil Miscellaneous Appeal is partly allowed.
No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.3,08,000/- to Rs.3,82,967/-

(iii) The appellant / claimant is directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of Court fee.

(iv) The respondent/Transport Corporation is directed to deposit the enhanced compensation amount i.e., Rs.3,82,967 /- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.1001 of 2008 on the file of the Motor Accident Claims Tribunal / IV Court of small causes Court, Chennai within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellant/claimant is at liberty to withdraw the same after following due process of law.

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Sd/-

Assistant Registrar (CS III MDU)

//True Copy//

Sub Assistant Registrar

smn

To

The IV Judge,
Motor Accidents Claims Tribunal,
(Court of small causes), Chennai.

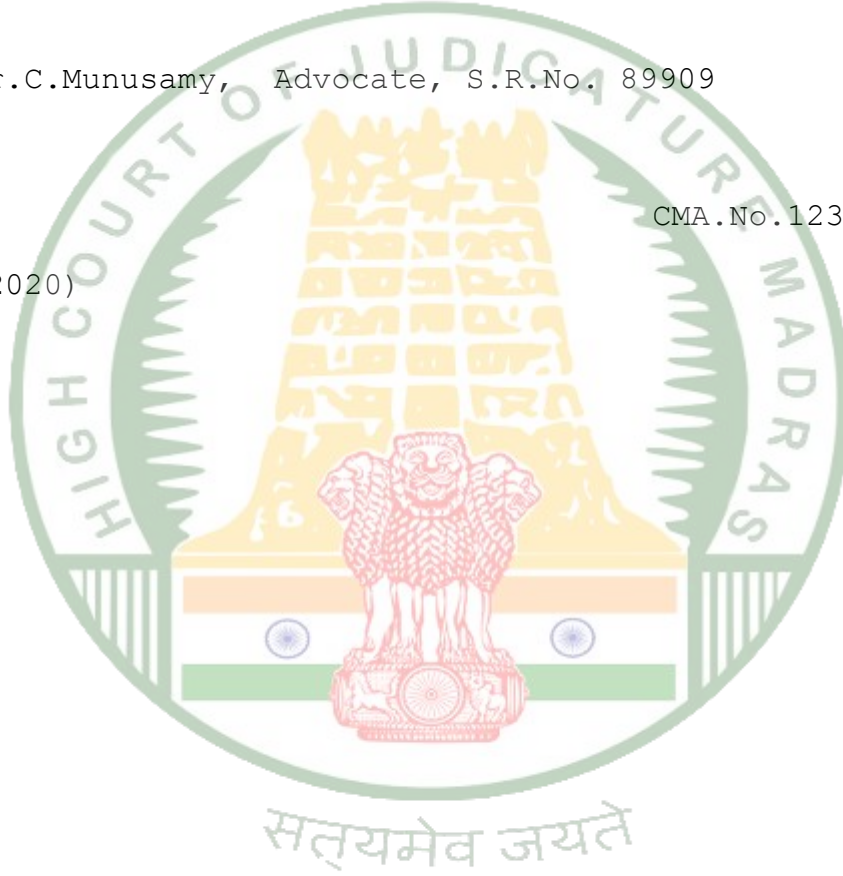
Copy To

The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.C.Munusamy, Advocate, S.R.No. 89909

CMA.No.1230 of 2013

BS(CO)
GN(05/08/2020)



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