

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 20.09.2018

Delivered on: 12.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.M.A.No.1963 of 2015

Malarkodi

...Appellant/Claimant

Vs

The Managing Director,
Metropolitan Transport Corp., Ltd.,
Anna Salai, Chennai - 2.

...Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of M.V. Act, 1988, against the Judgment and Decree dated 19.02.2015 made in M.C.O.P.No.225 of 2010 on the file of the Motor Accidents Claims Tribunal, V Small Causes Court, Madras.

For Appellant : Mr.T.G.Ravichandran

For Respondent : Mr.K.S.Suresh

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the claimant aggrieved over the award of Rs.68,500/- passed by the learned V Motor Accident Claims Tribunal, Chennai for the injuries sustained by her in the accident which occurred on 15.08.2009 at about 14.00 hrs. in the accident which occurred on 15.08.2009 at about 14.00 hrs. in the PVER Salai near Central Junction Point while she was hit by the MTC Bus belonging to the respondent, driven in a rash and negligent manner.

2.I heard Mr.T.G.Ravichandran, learned counsel for the appellant and Mr.K.S.Suresh, learned counsel for the respondent and perused the entire materials available on record.

3.The only issue is with regard to the quantum of compensation awarded by the Tribunal since the claimant alone.

4.The learned counsel for the appellant/claimant contends that the Tribunal awarded very meager amount as compensation.

The partial and Permanent disability, future prospects and other aspects were not considered properly by the Tribunal. Hence the petitioner seeks enhancement of the award amount by entertaining the appeal.

5.Per contra, the learned counsel appearing for the respondent contended that the Tribunal without appreciating the evidence properly wrongly awarded huge amount as compensation and the same is unsustainable. Thus the respondent seeks dismissal of this appeal.

6.The claimant suffered from Fracture V metal arpal left side shaft, Head injuries and multiple injuries and admitted in Government General Hospital, Chennai-3 as in-patient from 15.08.2009 to 22.08.2009 where surgery was done to her on 15.08.2009 K wire fixed. The medical witness / PW2 Dr.J.R.R.Thiyagarajan assessed the disability sustained by the claimant and Ex.P4 is the Disability Certificate issued by him. The Discharge Summary Ex.P3, issued by Government General Hospital, Chennai-3 where the claimant was treated, which reveals the nature of injuries suffered by the claimant. Therefore, based on the evidence of witness and the other medical records namely, Ex.P2 to Ex.P4 but the Tribunal has not rightly consider the disability of claimant determined the disability at 15% without any valid reasons.

7.Though the claimant sustained 45% disability as well as injuries the petitioner is faced so much difficult to lead her day to day life, therefore, this Court has taken the partial permanent disability occurred to the petitioner at 35% and sum of Rs.2,000/- per percentage is fixed as compensation and hence a sum of Rs.2,000/- X 35 = Rs.70,000/-, the sum of Rs.5,000/- awarded by the Tribunal towards Transportation and nourishing food is low and the same as enhanced to Rs.10,000/-, the sum of Rs.2,000/- towards attender charges is low and the same as enhanced to Rs.10,000/-. The sum of Rs.5,000/- awarded towards pain and suffering is low and the same as enhanced to Rs.30,000/-, the sum of Rs.5,000/- awarded towards medical expenses and the sum of Rs.13,500/- awarded towards loss of earning in treatment period are confirmed, the award of Rs.68,500/- granted by the Tribunal is enhanced to Rs.1,38,500/-. The award amount will carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

8.In view of the above modified award amount, the respondent is directed to deposit the award amount, less the amount if any already deposited along with accrued interest within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant is permitted to withdraw the

amount awarded as above by filing proper application before the Tribunal. The Tribunal shall pass appropriate directions for the disbursal of the amount as stated supra on the filing of such application to the personal savings bank account of the appellant through RTGS/NEFT system. In other aspects the award of the Tribunal is confirmed.

9. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs.
vs

Sd/-

Assistant Registrar

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Sub Assistant Registrar

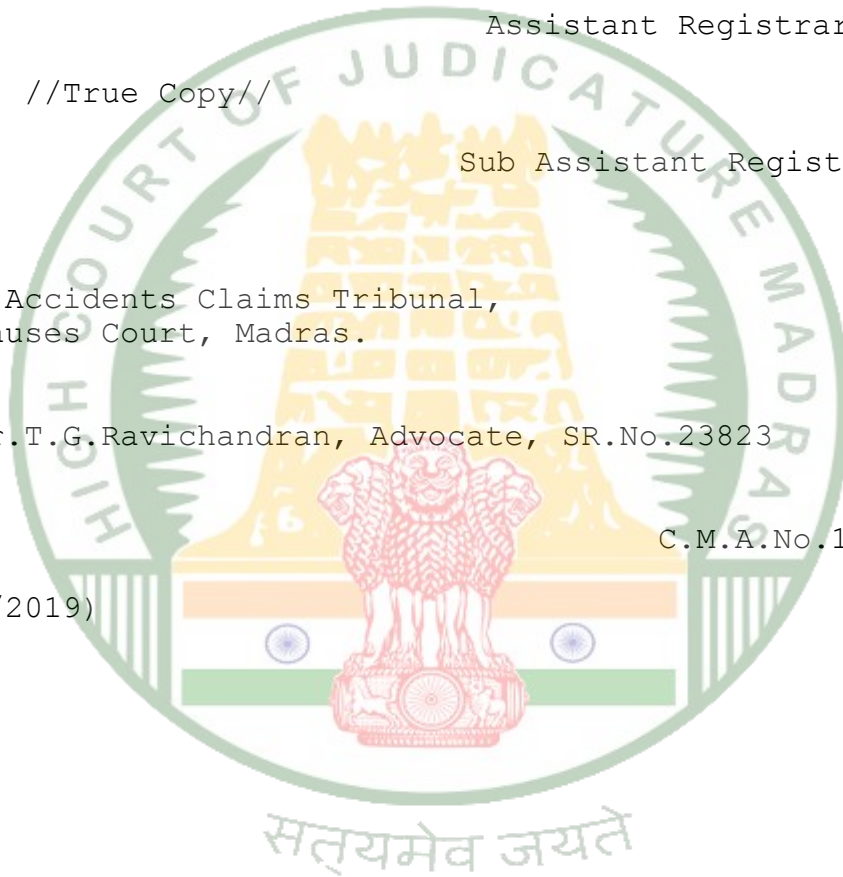
To

The Motor Accidents Claims Tribunal,
V Small Causes Court, Madras.

+1cc to Mr.T.G.Ravichandran, Advocate, SR.No.23823

C.M.A.No.1963 of 2015

Kak (11/06/2019)



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