

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3620 of 2011

and

M.P.No.1 of 2011

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division - I, Villupuram.
.... Appellant/ Respondent

.. Vs ..

Muniyammal Respondent/ Petitioner

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 21.02.2011 made in M.C.O.P.No.44 of 2008 on the file of the Motor Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpet.

For Appellant : Mr.K.J.Sivakumar

For Respondent : Mr.C.Prabakaran& M.Sivakumar
for V.Jaganathan

सत्यमेव जयते
JUDGMENT

Transport Corporation is the appellant herein challenging the Judgment and decree dated 21.02.2011 passed by the Motor Accidents Claims Tribunal (Additional Subordinate Judge), Chengalpet, in M.C.O.P.No.44 of 2008, both on the point of negligence and on the point of quantum.

2. The accident in this case happened on 07.12.2007 at 08.45 hours at G.S.T. Road, near Palayanur Salai bus stop while travelling in a private bus bearing Registration No.TN-48-E-4858 and in the said accident, the claimant has sustained left hand fracture and

multiple grievous injury. For the injuries sustained by her, the injured/claimant has filed a claim petition before the Tribunal claiming a sum of Rs.2,00,000/- as compensation.

3. Before the Tribunal, on the side of the claimant, the injured/claimant examined herself as P.W.1 and Doctor was examined as P.W.2 and documents Exs.P.1 to P.6 were marked. On behalf of the respondent, one witness was examined as R.W.1 and no document was marked.

4. After considering the oral evidence adduced by the injured/claimant/P.W.1, who had deposed regarding the manner of the accident which is duly corroborated by Ex.P.1-FIR and in the absence of any contra evidence, the Tribunal has rightly come to the conclusion that the accident has taken place due to the rash and negligent driving of the driver of the bus bearing Registration No.TN-32-N-2875 and the same is hereby confirmed.

5. On the point of quantum, it appears that the Tribunal has taken note of the notional income of the claimant as Rs.3,000/- and after deducting 1/3rd towards personal expenses, fixed the income as Rs.2,000/- per month and adopted multiplier of 17. After perusing the disability certificate issued by the Doctor-P.W.2 under Ex.P.4 and also taking note of the injuries as noted in Ex.P.2-discharge summary issued by CMC Hospital, Chengalpattu, I am of the considered view that the injured/claimant has not suffered any functional disability. Hence, based upon Ex.P.2-discharge summary and Ex.P.4-disability certificate coupled with the medical evidence of P.W.2-Doctor, the disability is arrived at 30% as permanent disability and not functional disability. Accordingly, at the rate of Rs.2,000/- per one percentage of disability, Rs.60,000/- is awarded and the award of compensation with multiplier method is hereby vacated.

6. Accordingly, the award of the Tribunal stands modified as follows:-

Sl. No.	Head	Amount awarded by the Tribunal	Amount granted by this Court
1.	Transport to hospital	Rs. 2,000/-	Rs. 10,000/-
2.	Extra Nourishment	Rs. 5,000/-	Rs. 10,000/-

Sl. No.	Head	Amount awarded by the Tribunal	Amount granted by this Court
3.	Damage to clothing	Rs. 500/-	Rs. 1,000/-
4.	Mental Agony	Rs. 10,000/-	Rs. 10,000/-
5.	Pain and Sufferings	Rs. 30,000/-	Rs. 5,000/-
6.	Loss of amenities, enjoyment in life	Rs. 30,000/-	Rs. 20,000/-
7.	Loss of earning during the period of treatment	Nil	Rs. 20,000/-
8.	Attender charges	Nil	Rs. 10,000/-
9.	Permanent disability	Rs. 1,22,400/-	Rs. 60,000/-
	Total	Rs. 1,99,900/-	Rs. 1,46,000/-

7. In the result,

I. This Civil Miscellaneous Appeal is partly allowed reducing the compensation from Rs.1,99,900/- to Rs.1,46,000/- with proportionate costs.

II. The interest granted by the Tribunal at 7.5% stands confirmed.

III. If the award amount with accrued interest has not been deposited, the appellant-Transport Corporation is directed to deposit the modified award amount, less the amount already deposited, if any, before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this Judgment.

IV. On such deposit being made, the respondent/claimant is permitted to withdraw the modified award amount with proportionate interest, less the amount already withdrawn, if any.

V.No order as to costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

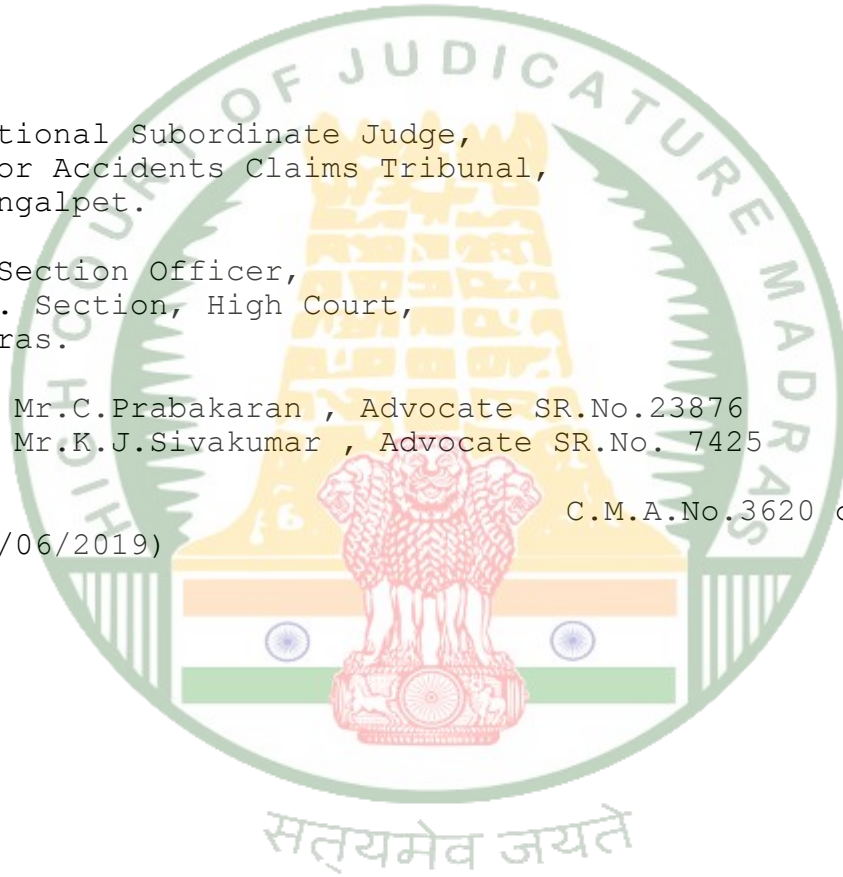
Jr1
To

1. Additional Subordinate Judge,
Motor Accidents Claims Tribunal,
Chengalpet.
2. The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.C.Prabakaran , Advocate SR.No.23876
+1cc to Mr.K.J.Sivakumar , Advocate SR.No. 7425

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A.SK(20/06/2019)



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