

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

C.M.A.No.148 of 2006
and C.M.P.No.452 of 2006

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division III,
Ooty, The Nilgiris Appellant/3rd Respondent

...vs...

1. Thiagarajan1st Respondent/Claimant
2. Sivakumar
3. Siruji
(R-2 & R-3 given up) ... Respondents 2 & 3/Respondents 1 & 2

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the decree and Judgment, dated 07.04.2004 made in M.C.O.P.No.426 of 2000 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Dharapuram.

For Appellant : Mr. S.V.Vasanthakumar

J U D G M E N T

This Appeal has been filed by the Transport Corporation, challenging the quantum of compensation, as exorbitant.

2. The claimant, aged 38, a Coolie Worker, earning a sum of Rs.3,000/- per month, met with an accident, on 11.09.1999. This accident had happened while the claimant was travelling in a Transport Corporation Bus, which was hit by another Transport Corporation Bus.

3. The claimant has filed a claim petition in O.P.No.426 of 2000. The claimant/injured had been admitted in Government Hospital, Ooty, immediately after the accident and thereafter, he was taken treatment at Vijaya Hospital, Coimbatore. The Doctor has been examined to speak about the permanent disablement on account of the fractures suffered by the

claimant, in the right leg, face and left knee. There had been shortening of leg by 8 cms. There is restriction in the movement. There had been difficulty in sitting in cross legs and the disablement has been certified at 70%. Though the disablement has been certified at 70%, the Tribunal has taken the same only at 50%. The monthly income of the claimant has been taken as Rs.1,500/-. The loss of income has been quantified by way of multiplier method and the disablement has been assessed at Rs.1,44,000/- (Rs.1,500/- x 12 x 16 / 50%).

4. The learned counsel appearing for the Transport Corporation / appellant would submit that it is not a case where multiplier method of quantification has to be adopted, especially, when the disablement was only 50%.

5. This Court is of the view that it is not only the percentage of physical disablement but the consequences of physical disablement especially which reflects in the functional disablement of the injured. The possible functional disablement as alleged by the claimant is supported by the evidence of the Doctor. The Tribunal has considered the loss of earning capacity only to the extent of 50% and not 100%. Therefore, the contention that this is not a fit case for adopting multiplier method of quantification cannot be accepted.

6. Further, the Appeal has been filed in the year 2005 and it is being disposed of only in the year 2019. Hence, in the meantime, there is an inevitable consequences of reflection on the value of money, i.e., the value of money has suffered reduction.

7. It is relevant to point out that, apart from the loss of earning capacity, the Tribunal has awarded compensation towards pain and suffering at Rs.50,000/-, transport expenses at Rs.5,000/-, grievous hurt at Rs.25,000/- and medical expenses at Rs.25,000/-, which are on conventional basis. Hence, this Court finds no reason to interfere with the same.

8. Added to the above, the loss of enjoyment of amenities has not been considered at all. Even if the loss of earning capacity awarded is more, that will be bifurcated into disablement compensation and loss of amenities of life. Therefore, the overall quantum appears to be just and reasonable.

9. In view of the above, the Civil Miscellaneous Appeal has no merits and therefore, this Civil Miscellaneous Appeal is dismissed. The appellant / Transport Corporation is directed to deposit the compensation amount, along with interests and costs, within a period of four weeks from the date of receipt of a copy

of this judgment. On such deposit being made, the Tribunal shall transfer the amount to the Savings Bank Account of the claimant / first respondent herein, through RTGS. No costs. Consequently, the connected CMP is closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

srk

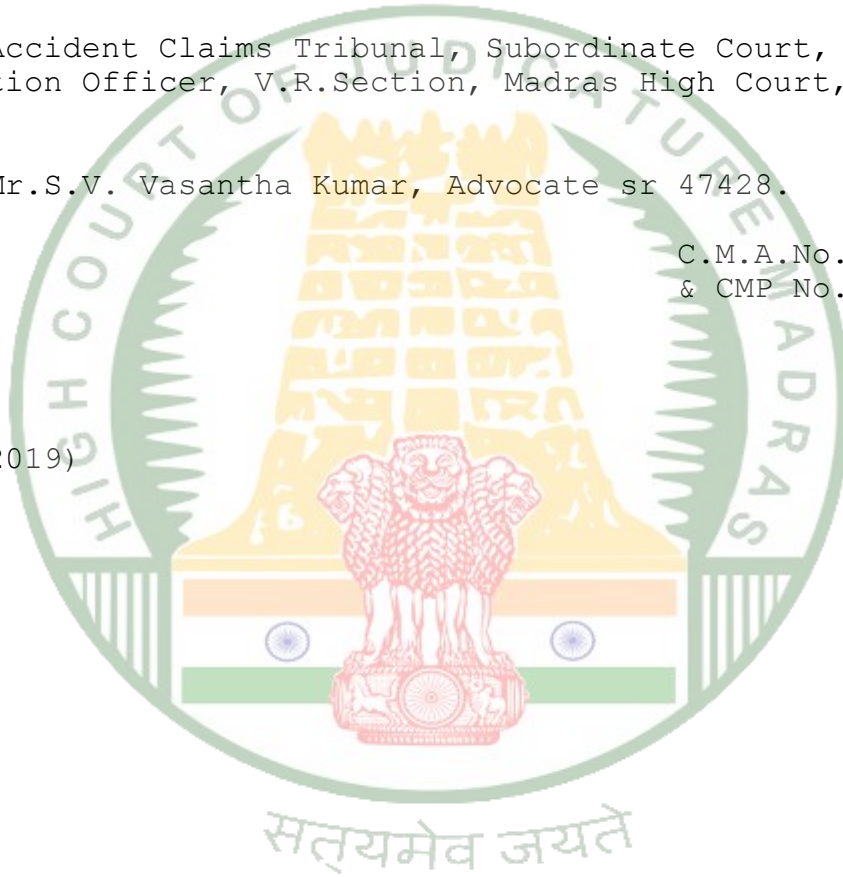
To

1. Motor Accident Claims Tribunal, Subordinate Court, Dharapuram.
2. The Section Officer, V.R. Section, Madras High Court, Chennai
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+1 CC to Mr.S.V. Vasantha Kumar, Advocate sr 47428.

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VBA (CO)
SP (01/11/2019)



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