

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.2201 of 2014

Panneer Selvam

...Appellant

vs.

Managing Director,
Tamil Nadu State Transport Corp. Ltd.,
Vellore.

.... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 23.08.2011 passed in MCOP.No.325 of 2004 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Thiruvannamalai.

For Appellant : Mrs.M.Malar

For Respondent : Mr.S.Sairaman

J U D G M E N T

The appellant is the claimant in MCOP.No.325 of 2004 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Thiruvannamalai. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.1,00,000/- for the injuries sustained by him in a road accident on 27.07.2003. सत्यमेव जयते

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

On 27.07.2003, the claimant was travelling as a passenger in a Tamil Nadu State Transport Corporation bus bearing Registration No. TN 23 N 0696 on Konanguttai - Thandarampattu road and at about 09.45 am, the driver of the bus drove the bus rashly and negligently and hit a tamarind tree abutting the road, as a result of which, the claimant sustained grievous injuries all over his body. According to the claimant, the rash and negligent driving of the driver of the bus bearing Registration No. TN 23 N 0696 belonging to the respondent / Tamil Nadu State Transport Corporation was the cause of the accident and therefore, they are liable to pay compensation.

3. The respondent / Tamil Nadu State Transport Corporation contested the claim petition. The learned Chief Judicial Magistrate / Motor Accident Claims Tribunal, Thiruvannamalai after analysing the evidence on record, awarded a compensation of Rs.42,500/- together with interest at the rate of 7.5% per annum to the claimant. Not 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.

4. Heard Mrs.M.Malar, learned counsel appearing for the appellant / claimant and Mr.S.Sairaman, learned counsel appearing for the respondent.

5. A perusal of the records shows that the claimant has sustained fracture in his right wrist and fourth rib (right chest). Dr.Ravindran (PW5) has assessed the partial permanent disability as 40% and the Tribunal has reduced the same to 25% and awarded a sum of Rs.1,000/- per percentage of disability. Considering the nature of injuries and the year of the accident, this Court is of the opinion that the disability can be fixed at 20% and a sum of Rs.2,000/- per percentage of disability can be awarded to the claimant. It is seen from the claim petition that the claimant was an agriculturist, earning a sum of Rs.3,000/- per month. Since the accident took place in the year 2003, Rs.3,000/- is fixed as notional monthly income of the claimant. As the claimant had sustained fracture in his right wrist, he would not have been in a position to attend to his routine work atleast for six months and therefore a sum of Rs.18,000/- (Rs.3,000/- x 6 months) is awarded towards "loss of income". The award passed by this Court under various heads is extracted hereunder:

S.No	Head	Amount granted by this Court
1.	Partial permanent disability	Rs.40,000/-
2.	Pain and sufferings	Rs.10,000/-
3.	Transportation	Rs.5,000/-
4.	Extra nourishment	Rs.5,000/-
5.	Attender's charges	Rs.2,000/-
6.	Damage to clothes	Rs.500/-
7.	Loss of income	Rs.18,000/- (Rs.3,000/- x 6 months)
Total		Rs.80,500/-

Thus the compensation awarded by the Tribunal is enhanced from Rs.42,500/- to Rs.80,500/- which would carry interest at the rate of 7.5% per annum.

6. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from Rs.42,500/- to Rs.80,500/-.

(iii) The appellant / claimant is directed to pay court fee for the enhanced compensation amount, if any, within a period of three weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.

(iv) The respondent / Tamil Nadu State Transport Corporation is directed to deposit the enhanced compensation amount i.e., Rs.80,500/- (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.325 of 2004 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Thiruvannamalai 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.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

To

1.The Motor Accidents Claims Tribunal,
The Chief Judicial Magistrate,
Thiruvannamalai.

2.The Managing Director,
Tamil Nadu State Transport Corp. Ltd.,
Vellore.

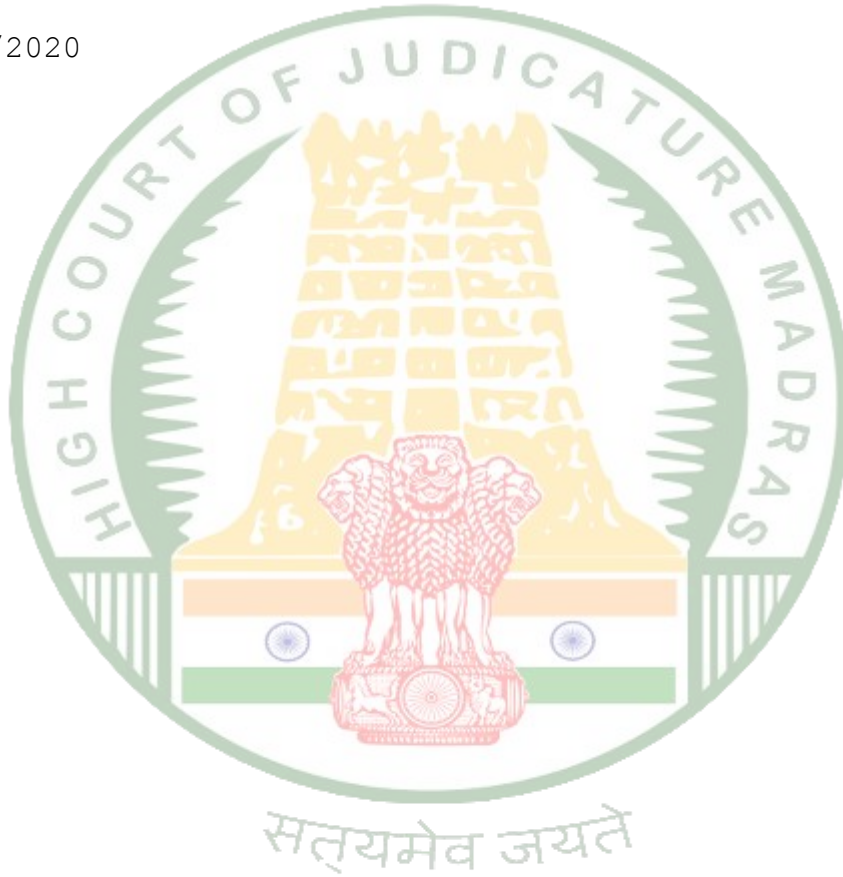
3. The Section Officer,
VR Section,
High Court of Madras.

+1cc to M/s.S.Sairaman, Advocate Sr.90639

+1cc to M/s.F.Terry Chella Raja, Advocate Sr.90792

CMA.No.2201 of 2014

vsn II[co]
srg 16/03/2020



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