

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.998 of 2016

Venkatesh

.. Appellant/Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan Salai, Chennai-2 .. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the decree and award dated 29.11.2013 and made in M.C.O.P.No.181 of 2010 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Poonamallee.

For Appellant : Mr.J.Mahalingam

For Respondent : Mr.S.S.Swaminathan

J U D G M E N T

The civil miscellaneous appeal is filed against the judgment and decree dated 29.11.2013 passed in M.C.O.P.No.181 of 2010.

2. The appeal on hand is filed for enhancement of compensation. The Tribunal awarded the compensation of Rs.96,000/-, considering the fact that the Doctor issued the disability certificate as 30% and the Tribunal has taken as 25% disability and accordingly, granted Rs.2,000/- per percentage for 25% and awarded 50% towards disability.

3. The accident occurred on 26.12.2007 at about 14.00 Hrs at Anna Salai, Pay & Accounts Office, Nandanam. R-4 Pondy Bazaar Police registered a case in Crime No.494/TN3/07.

4. The appellant/claimant filed an application for compensation and the Tribunal adjudicated the issues with reference to the documents and evidences produced. The findings of the Tribunal reveals that the accident occurred on account of the negligence on the part of the Driver of the Bus bearing

Registration No.TN 01 N 2618 owned by the respondent. The Tribunal made a finding that but for the rash and negligent driving of the Bus Driver, the accident would not have occurred. Accordingly, the liability was fixed and with reference to the grant of compensation, the Tribunal considered the fact that the appellant/claimant was 22 years and he was a Painter by Profession and his income was Rs.4,00/- per day. The job of Painter is under an unorganized sector. Thus, the Tribunal could not arrived an exact income and accordingly, fixed Rs.7,000/- as monthly income and the Tribunal further considered the petitioner could earn a sum of Rs.12,000/- per month. As per the examination of P.W.2, the appellant has proved that the disability was 30%. Thus, the Tribunal has fixed the disability as 25% and accordingly, granted the compensation towards disability as Rs.50,000/- by fixing a sum of Rs.2,000/- per percentage.

5. This Court is of the considered opinion that fixing a sum of Rs.2,000/- per percentage is less and the Courts have enhanced the compensation in such circumstances as Rs.3,000/- per percentage. Therefore, under the head of disability, the appellant is entitled for enhancement of compensation. In all other respects, this Court do not find any perversity or infirmity with reference to the award of compensation. Accordingly, the compensation for disablement awarded by the Tribunal as Rs.50,000/- is enhanced to 75%.

6. The total compensation payable to the appellant/claimant is Rs.96,000/-+Rs.25,000/-=Rs.1,21,000/- (Rupees One Lakh Twenty One Thousand only)

7. Thus, the respondent/Transport Corporation is directed to deposit the entire award amount with accrued interest, if not deposited, within a period of six(6) weeks from the date of receipt of a copy of this judgment and on such deposit, the appellant/claimant is permitted to withdraw the entire award amount with accrued interest by filing an appropriate application before the Tribunal and the payments are to be made through RTGS. The appellant is entitled for the interest at the rate of 7.5% for the enhanced compensation per annum for the enhanced compensation. The claimant is liable to pay Court fee for the enhanced compensation.

8. With this modification, the Civil Miscellaneous Appeal stands allowed. No costs.

Sd/-

Assistant Registrar (CS-IV)

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Sub Assistant Registrar

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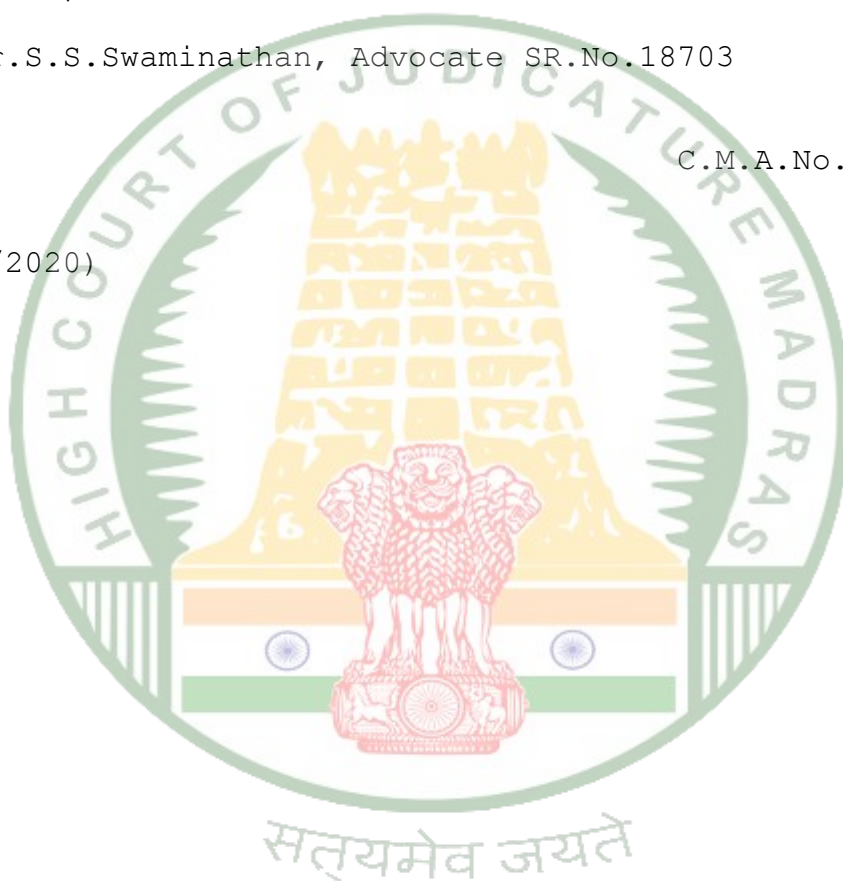
1.The II Additional District Judge,
(Motor Accidents Claims Tribunal),
Poonamallee.

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

+1cc to Mr.S.S.Swaminathan, Advocate SR.No.18703

C.M.A.No.998 of 2016

RJI (CO)
GMY (20/11/2020)



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