

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 451 of 2015

&

M.P. No. 1 of 2015

The Managing Director,
Karnataka State Transport Corporation,
Chickballapur Division,
Chickballapur, Bangalore.

... Appellant/1st Respondent

Vs.

1. Mr.G. Kumaran

2. Mr.S. Ramalingam

3. The Divisional Manager,
National Insurance Company Ltd.,
J.N. Street, Pondicherry.

... Respondents/
Petitioner/2nd & 3rd Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 09.01.2012 passed in M.C.O.P. No. 210 of 2008 by the Motor Accidents Claims Tribunal, (Principal Subordinate Judge), at Cuddalore.

For Appellant : Mr.V. Ramesh

सत्यमेव जयते
J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Transport Corporation as against the fastening of liability as well as awarding of Rs.4,29,640/- granted in favour of the 1st respondent/claimant, who sustained injuries in the accident, which occurred on 01.09.2007, when he was travelling in a car, which was hit by a bus belonging to the appellant Transport Corporation driven, rashly and negligently.

2. Heard the learned counsel for the appellant, who would submit that, in the absence of any documentary proof and also ignoring the filing of FIR as against the car driver, the Tribunal found that the driver of the bus belonging to the appellant Transport Corporation was negligent and awarded a sum of Rs. 4,29,640/- as compensation to the claimant, which is unsustainable.

3. However, it is seen from the records that though FIR was registered against the driver of the car, it cannot be taken as gospel truth. It only shows the occurrence of the accident. Moreover, the injured claimant, who examined himself as P.W.1, has categorically pleaded and stated that the accident occurred because of the rash and negligent driving of the bus. Eventhough the appellant filed counter statement, no evidence was adduced on their behalf. When there is pleading as well as evidence to the effect that it was the bus, which was driven rashly and negligently and that the driver of the bus alone was responsible for the accident, the Tribunal rightly fastened the liability on the appellant Transport Corporation. Therefore, the said finding cannot be set aside.

4. With regard to the nature of injuries sustained, it is seen that the 1st respondent sustained fracture of head nose facial bone, par facial trauma, CLW right eye lid and cicsym orbital bone with facial never injury, CLW right superficial branch of ulnar nerve and contusion of deep branch of ulnar nerve. P.W.2, Doctor, also spoke about the injuries and he determined the disability at 50%. Taking into consideration, the disability sustained; the evidence of Doctor P.W.2 and the medical records, namely, Ex-P3, Discharge Summary, Ex-P10, Medical Bills, Ex-P13, Disability Certificate, the said determination of percentage of disability cannot be said to be on the higher side and the same is confirmed. The Tribunal rightly awarded Rs.1 lakh towards "Disability" @ Rs. 2000/- per percentage of disability. A sum of Rs. 13,640/- was awarded towards "Loss of leave salary for 12 days" during which time, the claimant was hospitalised and he was under continuous treatment even thereafter. Therefore, the said amount is reasonable and the same is confirmed. The sum of Rs.7500/- awarded towards "Transportation Expenses"; Rs.5000/- awarded towards "Extra Nourishment"; Rs.2,78,000/- awarded towards "Medical Expenses" based on Ex-P10 series; Rs.500/- awarded towards "Damage to Clothes"; Rs.5000/- awarded towards "Attendant Charges" and Rs.20,000/- awarded towards "Pain and Suffering" are all reasonable and therefore, confirmed. Hence, the award of Rs.4,29,640/- together with interest @ 7.5% per annum is confirmed.

5. It is represented by the learned counsel for the appellant that the entire award amount, together with interest and costs, has already been deposited before the Tribunal. Therefore, the Motor Accidents Claims Tribunal (Principal Sub Court), Cuddalore, is directed to pay the entire amount to the claimant within a period of one week from the date of receipt of a copy of this order.

6. In the result, the Civil Miscellaneous Appeal fails and the same is dismissed confirming the award passed by the Tribunal. No costs. Connected M.P. is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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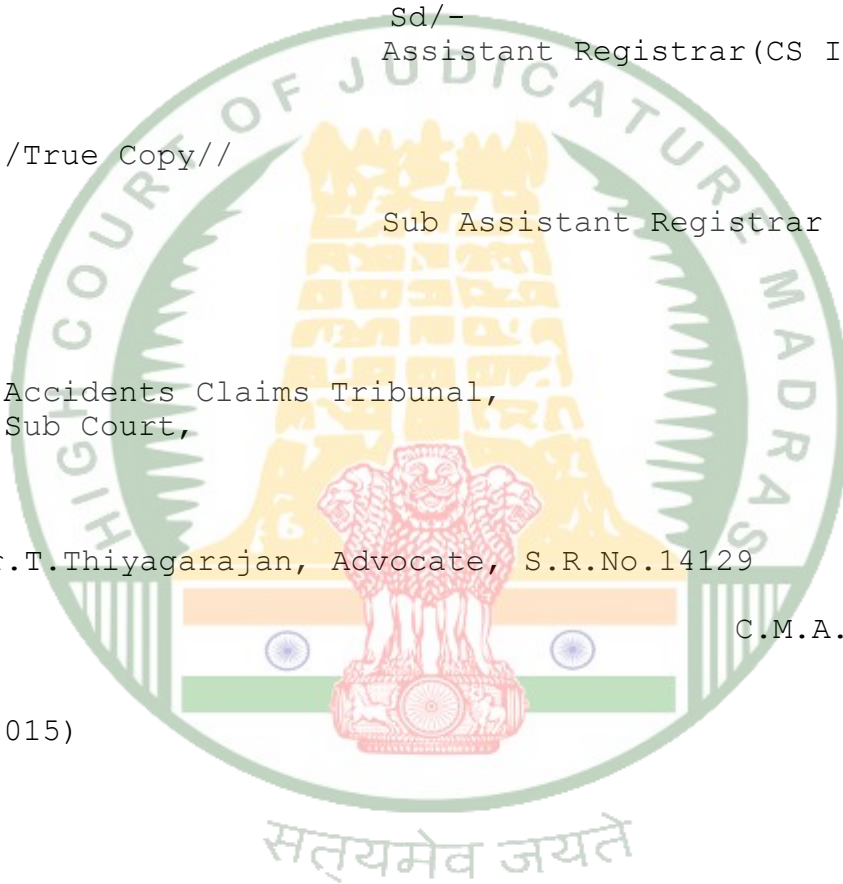
To

The Motor Accidents Claims Tribunal,
Principal Sub Court,
Cuddalore.

+1cc to Mr.T.Thiyagarajan, Advocate, S.R.No.14129

C.M.A. No. 451 of 2015

GJ(CO)
CA(23/06/2015)



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