

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1139 of 2016
& C.M.P.No.8598 of 2016

The Managing Director
Metropolitan Transport Corporation Ltd.,
(Villupuram-III) Ltd.,
Kanchipuram Region,
Kanchipuram. Appellant/Respondent

vs.

1. R.Ravichandran ... Respondent/Claimant

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 05.02.2013 passed in M.C.O.P.No.2158 of 2009 on the file of the Motor Accidents Claims Tribunal, (VI Court of Small Causes,) Chennai.

For Appellant : Mr.K.J.Sivakumar

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the Judgment and decree dated 05.02.2013 passed in M.C.O.P.No.2158 of 2009 on the file of the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai.

2. Heard the learned counsel for the appellant and perused the materials available on record.

3. This is a case of injury. In an accident that took place on 08.05.2009 at 01.00hrs., wherein, the claimant who travelled as a passenger in the bus belonging to the Transport Corporation bearing Registration No.TN-21-N-1161 came in a rash and negligent manner and hit against the standing lorry bearing Registration No.TN-22-AR-3537 which was parked on the left side of road, as a result of which, he sustained grievous injuries.

The claimant approached the Tribunal claiming compensation to the tune of Rs.1,50,000/-.

4. The Tribunal, taking into account the oral and documentary evidence granted compensation to the tune of Rs.1,12,500/- to the claimants and directed the appellant to pay the compensation to the claimant, by holding that the accident was due to rash and negligent driving of driver of the Transport Corporation. Aggrieved over the same, the Corporation is before this Court.

5. According to the claimant, he was working as a Chief Executive Officer in a reputed Company and in the accident, he suffered laceration in chin and his upper teeth were affected severally and he had abrasions all over the body. It is his further case, by driving the vehicle in a rash and negligent manner, the driver of the Corporation bus dashed against the parked lorry. At first, the claimant took treatment in Parvathy Hospital and had also taken treatment in a dental clinic.

6. The learned counsel appearing for the Transport Corporation contended that while analysing the evidence of P.W.2, doctor, it is averred that P.W.2, had not given treatment to the injured and it is his further case that the disability assessed is also on the higher side. Hence, the tribunal erred in fixing the disability of the claimant at 30% which has got to be reduced.

7. It is his further case that for the simple injuries suffered by the claimant, the Tribunal has erred in fixing 30% disability, which in my view cannot be said to be excessive as the Tribunal has awarded only Rs.2,000/- per percentage of disability. In a catena of decisions of this Court as well as Supreme Court, while assessing disability, Rs.3,000/- per percentage of disability has been awarded. Therefore, for the injuries sustained by the claimant as stated by P.W.2, Doctor and based on the disability Certificate, I find that the award of the Tribunal is perfectly justified. Hence, taking note of the totality of the circumstances, I find no reason to interfere with the award of the Tribunal.

8. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The rate of interest granted by the Tribunal is also confirmed. The appellant Transport Corporation is directed to deposit the entire award amount together with interest to the credit of MCOP No.2158 of 2009 on the file of the Motor Accident Claims Tribunal (VI Court of Small Causes), Chennai, if not already deposited, within a

period of eight weeks from the date of receipt of a copy of this order and on such deposit being made, the claimant is entitled to withdraw the same on filing necessary application before the Tribunal. There will be no order as to costs in this appeal. Connected miscellaneous petition is also closed.

9. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016, scrupulously.

Sd/-

Assistant Registrar(CS V)

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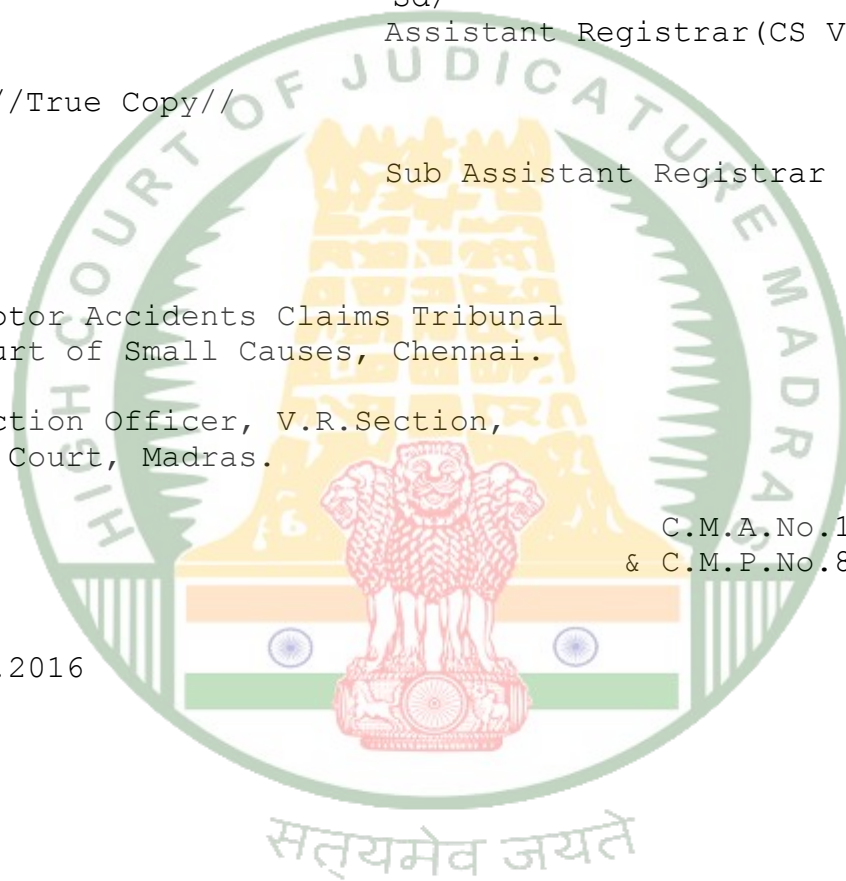
Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal
IV Court of Small Causes, Chennai.
2. The Section Officer, V.R.Section,
High Court, Madras.

C.M.A.No.1139 of 2016
& C.M.P.No.8598 of 2016

rj co
kra 21.09.2016



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