

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1035 of 2016
and
C.M.P No.7965 of 2016

The Managing Director,
M.S. TNSTC Limited,
Periya Melakuparai,
Trichy. ... Appellant

Vs.

S. Gopi ... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 24.10.2013 made in M.C.O.P.No.532 of 2010 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur.

For Appellant : Mr. D.Venkatachalam

For Respondent : Mr. --

J U D G M E N T

The Transport Corporation has come up with this appeal challenging the quantum of compensation awarded by the Tribunal.

2. In an accident which occurred on 03.03.2009, the appellant Transport Corporation bus, bearing Registration No. TN 45 N 2034, in which the claimant was travelling, dashed against a tamarind tree and was capsized, on the left side of Athur - Trichy Main Road. Due to the said accident, the claimant along with other passengers, sustained fracture in the left ankle, neck, right hand and multiple injuries all over his body. Hence, he filed a Claim Petition before the Tribunal seeking a sum of Rs.3,00,000/- as compensation. After analyzing the available oral and documentary evidences, the Tribunal awarded a total sum of Rs.50,000/- as a total compensation.

3. Learned counsel appearing for the appellant/Transport Corporation would mainly contend that the

driver of the Transport Corporation bus, in order to avoid dashing against a motorcycle, which came in a rash and negligent manner, applied sudden brake and so the bus capsized. The injuries sustained by the claimant were only simple in nature, for which the Tribunal has granted a compensation of Rs.50,000/- and the same is on the higher side. He further contended that the claimant/ respondent has not examined his Doctor as a witness, since he was not severely injured and has not produced the Disability Certificate. Hence, this appeal has been filed challenging the quantum of compensation granted by the Tribunal.

4. It is found from the records that the Tribunal has passed the award based on documentary evidences and depositions of the witness/claimant. The fact that the appellant Transport Corporation bus capsized on the Attur Trichy Main road and the claimant, who is a passenger in the bus sustained injuries, is not denied. Due to the accident, the claimant sustained injuries and in the absence of documentary evidence, the Tribunal has granted only a sum of Rs.50,000/- as compensation, which is very fair and reasonable.

5. This Court considered the submissions made by the learned counsel for the appellant and perused the materials available on record. Since the respondent/ claimant will not be prejudiced with the result of this Appeal, the main case itself is disposed of at the stage of admission itself of without serving notice to them.

6. A perusal of the records would show that the appellant Transport Corporation bus met with an accident and a case has been registered in the Attur Police State in Crime No. 333/2009. The fact that the injured claimant was one of the passengers, is not disputed by the appellant Transport Corporation. Only the quantum of compensation granted by the Tribunal, in the absence of any documentary evidences, is challenged before this Court. The said ground has already been discussed by the Tribunal and no compensation has been granted towards Disability, in the absence of the Disability Certificate. The Tribunal, only considering the nature of injuries sustained, the pain and sufferings undergone by the claimant and the loss of income during the period of treatment, has rightly granted a sum of Rs.50,000/-, which this Court is not inclined to interfere with and hence the same is confirmed.

7. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. The appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest, less the

amount already deposited, if any, to the credit of M.C.O.P.No.532 of 2010 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Perambalur, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimant in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company. No costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS IV)

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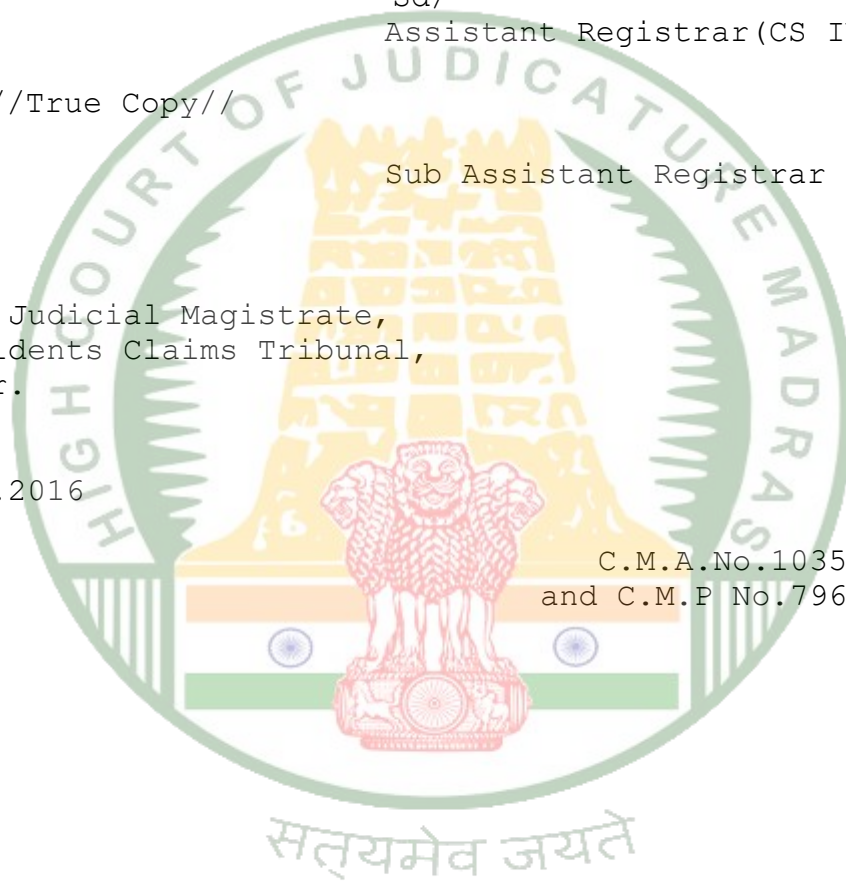
Sub Assistant Registrar

avr

To
The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Perambalur.

ad co
kra 22.08.2016

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