

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.09.2016

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THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A.No.2007 of 2016

and

C.M.P.No.14551 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Periyamilaku Parai,
Trichy - 1. ... Appellant/Respondent

versus

Balaraman ... Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 07.09.2015 made in M.C.O.P.No.1475 of 2010, on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Cuddalore.

For appellant : Mr.D.Venkatachalam

JUDGMENT

The Civil Miscellaneous Appeal has been directed against the impugned award dated 07.09.2015 made in M.C.O.P.No.1475 of 2010, on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Cuddalore, in and by which, the Tribunal has awarded a total compensation of Rs.20,948/- with interest at the rate of 7.5% per annum from 16.08.2010 to 07.09.2015.

2. The case of the claimant is that on 28.09.2009, at about 08.30 a.m., when he was riding in his motor cycle bearing registration No.TN-31AB-5319 from East to West direction on the extreme left side of Cuddalore to Virudhachalam Road at Pethanayakkankuppam, the bus belonging to the Tamil Nadu State Transport Corporation, came from back side at great speed in a rash and negligent manner and without making any caution and without following the traffic rules and regulations, hit behind the claimant's motor cycle and caused the accident and thereby, the claimant sustained multiple grievous injuries.

3. The learned counsel appearing for the Appellant/Transport Corporation would submit that the present appeal has been filed on the ground that when the alleged vehicle bearing registration No.TN-31AB-5319 said to have met with an accident, the learned Tribunal, without seeing the relevant documents to implicate the vehicle in question, ought not to have decreed the claim petition. Further, the learned counsel appearing for the Appellant/Transport Corporation submitted that when there was no adequate evidence placed by the injured, the learned Tribunal, has accepted the medical bills showing that the claimant suffered injuries and had incurred a sum of Rs.978/- towards medical expenses and Rs.20,000/- towards pain and suffering.

4. This Court does not find any merit in the submissions made by the learned counsel appearing for the Appellant/Transport Corporation, because the reason is that when the claimant was riding in his Motor Cycle bearing registration No.TN-31AB-5319 from East to West direction on the extreme left side of the Cuddalore to Vridhachalam road at Pethanayakkankuppam, the appellant's vehicle bearing registration No.TN-45N-2830, came from back side at great speed in a rash and negligent manner, hit against the claimant's motor cycle and caused the accident and thereby the claimant sustained multiple grievous injuries and become permanent disabled man. The learned Tribunal, rightly considering the case of the claimant, who was aged about 52 years at the time of accident and was earning a sum of Rs.7,500/- per month as a Mason and considering the fact that no evidence has been let in to substantiate the defence with regard to the negligence on the part of the claimant and it is the duty of the appellant to prove the negligence of the claimant, has rightly fixed the negligence on the part of the appellant's driver. Therefore, it is obvious to draw adverse inference against the appellant under Section 114 of the Indian Evidence Act. The claimant has produced Ex.P.1/F.I.R. wherein the manner in which, the accident was taken place, has been narrated in detail. This Court finds that the learned Tribunal has awarded a sum of Rs.20,948/- towards compensation, which seems to be reasonable. Therefore, this Court is not able to interfere with the impugned award passed by the learned Tribunal.

5. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is also dismissed.

6. Since the learned counsel appearing for the appellant/Transport Corporation submitted that the appellant has deposited Rs.25,000/- towards statutory deposit, the balance

amount is directed to be deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimant to move a petition before the learned Tribunal for withdrawing of the said amount.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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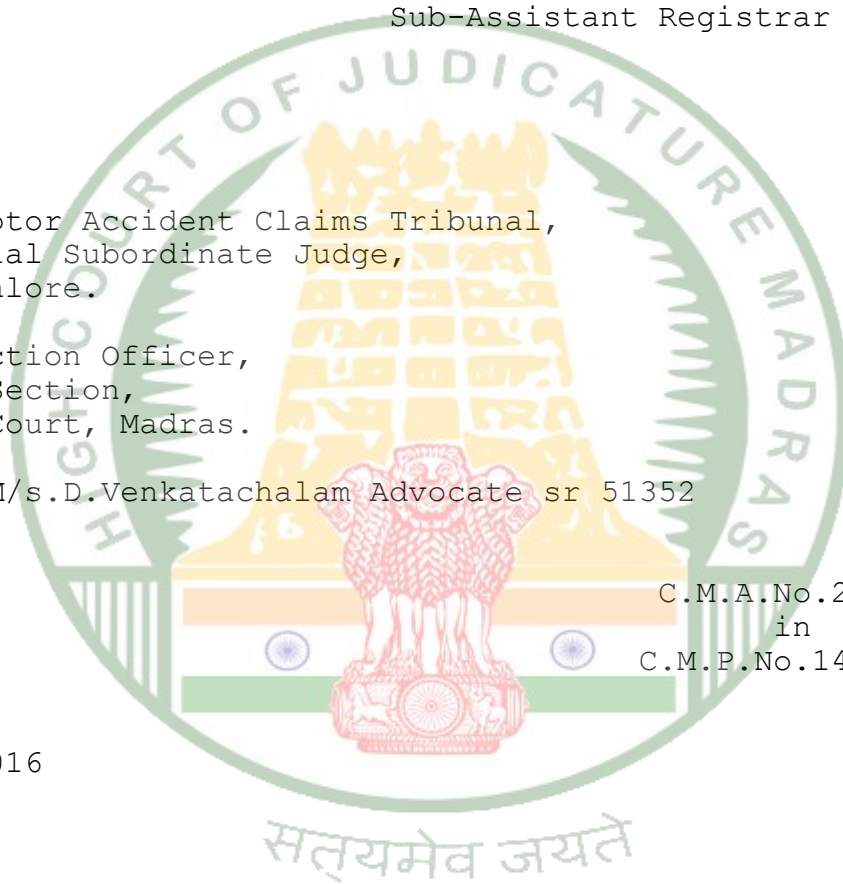
1. The Motor Accident Claims Tribunal,
Special Subordinate Judge,
Cuddalore.

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

+1 cc to M/s.D.Venkatachalam Advocate sr 51352

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