

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.371 of 2015

The Managing Director,
M/s.Tamil Nadu State Transport
Corporation Limited,
Kumbakonam (Branch)
Railway Station Road,
Kumbakonam,
Thanjavur - 622 001. ...Appellant / Respondent

versus

S.Suresh ...Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act against the Judgment and decree dated 06.03.2014 made in M.C.O.P.No.240 of 2013 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur.

For Appellant : Mr.D.Venkatachalam
For Respondent : Mr.T.Gopinath

JUDGMENT

The claimant Suresh, aged 26 years, running a Power Loom, earning a sum of Rs.20,000/- p.m., met with an accident on 07.03.2013 and sustained injuries, in respect of which, he filed a claim petition before the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur, claiming compensation of Rs.10,00,000/-.

1.1. After considering the oral and documentary evidence, the Tribunal has fastened the liability as against the Transport Corporation finding that the accident had occurred due to rash and negligent driving of the driver of the Transport Corporation and the Tribunal has awarded a sum of Rs.2,61,847/-, as against the claim of Rs.10,00,000/-.

1.2. Challenging the finding on negligence, the Transport Corporation has filed this appeal.

2. The learned counsel appearing for the appellant/Transport Corporation submitted that the Tribunal ought not to have held that mere registering FIR as against the driver of the Transport Corporation is enough for holding negligence on him; the Tribunal without considering the evidence of R.W.1 fixed the liability as against the Transport Corporation.

2.1. It is the main contention of the learned counsel for the appellant that the claimant was riding motorcycle in front of the bus and dashed against the center median and sustained injuries, hence, there is no negligence on part of the driver of the Transport Corporation.

3. A perusal of the award would go to show that the Tribunal has taken note of the fact that not only the First Information Report, but the charge sheet also have been filed only as against the driver of the Transport Corporation.

3.1. The mode of accident has also been spoken out by way of examining the driver of the Transport Corporation. During examination, the Driver has stated that the driver of the two wheeler was riding his two wheeler in front of the bus and hit against the center median and only because of that, he sustained injuries.

3.2. The Tribunal has given a reason that no independent witness has been examined to spoke about the mode of accident.

3.3. The Tribunal has also pointed out that the departmental proceedings are pending as against the driver of the Transport Corporation and that the Driver has also not produced any document to show that he had proceeded against the person, who was responsible for the accident. Hence, the Tribunal has come to the correct conclusion that the driver of the Transport Corporation was driving the bus in a rash and negligent manner. Hence, the finding on negligence is confirmed and the appeal is liable to be dismissed.

4. In the result, the appeal is dismissed, confirming the award dated 06.03.2014 passed in M.C.O.P.No.240 of 2013 by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur.

5. The Transport Corporation shall deposit the entire award amount, less the amount already deposited if any, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the

claimant is permitted to withdraw the same. No costs.
Consequently, M.P.No.1 of 2015 is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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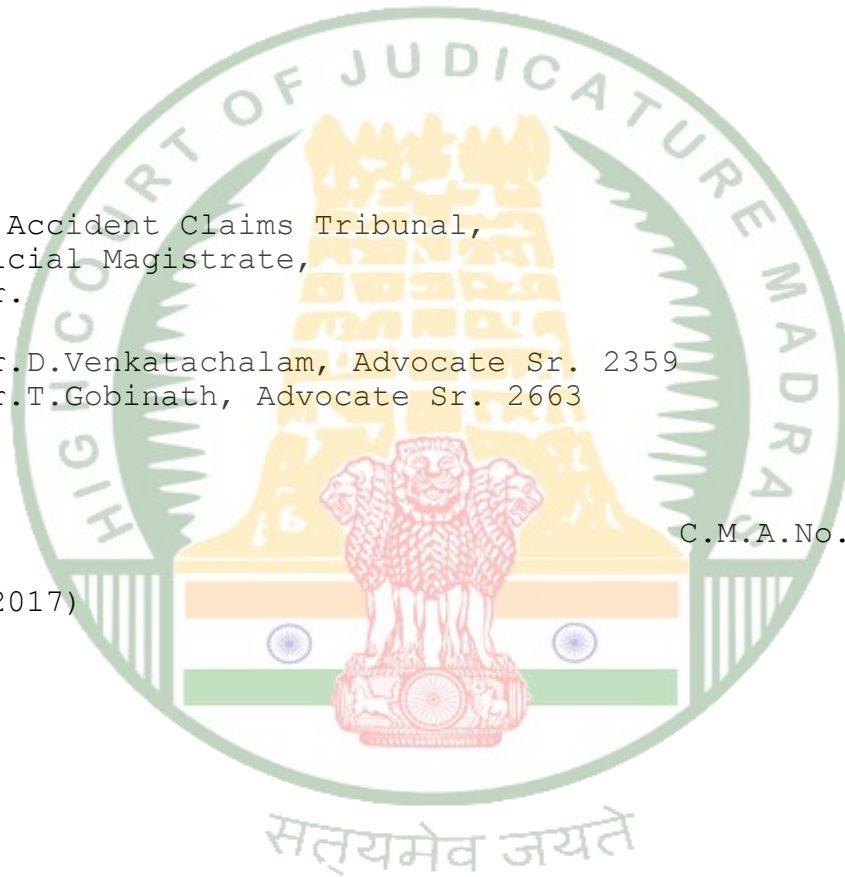
The Motor Accident Claims Tribunal,
Chief Judicial Magistrate,
Perambalur.

+1cc to Mr.D.Venkatachalam, Advocate Sr. 2359

+1cc to Mr.T.Gobinath, Advocate Sr. 2663

KJ(CO)
VR(05/09/2017)

C.M.A.No.371 of 2015



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