

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No. 197 of 2017

and

CMP.No.1314 of 2017

Metropolitan Transport Corporation Ltd,
Represented by its Managing Director,
No.2, Pallavan Salai,
Chennai- 600 002 .. Respondent/Appellant

versus

R.Dhanalakshmi ..Petitioner/Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Fair and Decreetal order dated 02.12.2008 passed in M.C.O.P.No.3461 of 2004 by the learned IV Judge, Small Causes Court, Motor Accident Claims Tribunal, Chennai.

For appellant : Mr.S.S.Swaminathan

For Respondent : No appearance

J U D G M E N T

As against the claim made for a sum of Rs.8,00,000/-, the tribunal has awarded a sum of Rs.1,14,350/-. This amount is ordered to be payable along with interest @ 9.5% from the date of numbering the petition till the date of deposit, within a period of two months from the date of award. The award has been passed on 02.12.2008.

1.1. Challenging the said award as excessive, the Transport Corporation has preferred this Civil Miscellaneous Appeal.

2. The main contention raised by the appellant - Transport Corporation is that the injured claimant after alighting from the bus and had been standing behind the bus (at the time of accident) and thus invited the accident; she was negligent and responsible for the accident, but the Claims Tribunal has held that the accident was only due to rash and negligent driving of the appellant Corporation bus. The second contention is that the amount of compensation awarded is exorbitant.

3. In order to appreciate the contentions, it is necessary

to look into the break-up details, of the compensation awarded by the tribunal:

Loss of earnings	-	Rs.24,000/-
Transport to hospital	-	Rs. 5,000/-
Extra nourishment	-	Rs. 5,000/-
Mental agony to the petitioner and her family members	-	Rs. 5,000/-
Medical expenses	-	Rs. 350/-
Pain and sufferings	-	Rs.20,000/-
Permanent disability	-	Rs.55,000/-
Total	-	Rs.1,14,350/-

4. So far as the quantification of the compensation is concerned, the claimant has taken the treatment at Government Hospital from 18.03.2004 to 05.04.2004. Again she has been admitted for second time and has taken treatment upto 20.10.2004. The petitioner is working as a coolie and earning a sum of Rs.3,000/- per month. The medical expenses has been awarded only subject to Ex.P3-OP Chits and Medical Bills. From the nature of the injury, period of treatment, permanent disability one can infer what could have been the medical expenses. Records show that only Rs.350/- which was awarded towards medical expenses which is low. While awarding compensation for permanent disability, the loss of earning capacity has not been considered and no compensation has been awarded. The, future Prospective income was also not considered and loss of enjoyment of amenities is also not awarded. Therefore, the amount of compensation awarded, cannot be said to be excessive and in a way it is less.

5. So far as the negligence is concerned, on the side of the respondent, the driver of the Corporation bus has been examined and has stated that when the bus was about to stop at Egmore Railway Station, the claimant stepped down from the front entrance (impliedly) moving bus, and thus caught herself at the back entrance and therefore the claimant is responsible for the accident. But, in the counter it is stated that she got down from the back entrance and thus sustained injury. The tribunal has drawn inference from the evidence of the driver and held that the evidence of the driver is unbelievable. It is also relevant to point out that, no independent witness has been examined. Therefore, the Claims tribunal has come to the conclusion that the negligence is on the part of the driver of the bus.

In view of the same, this Appeal stands dismissed, confirming the fair and decretal order dated 02/12/2008 passed in MCOP.No.3461 of 2004 by the learned IV Judge, Small Causes Court, Motor Accident Claims Tribunal, Chennai. No costs. Consequently, connected Miscellaneous Petition is closed.

the award amount along with interest at the rate of 9.5% p.a. from the date of petition till the date of deposit, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant is entitled to withdraw the deposit amount.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

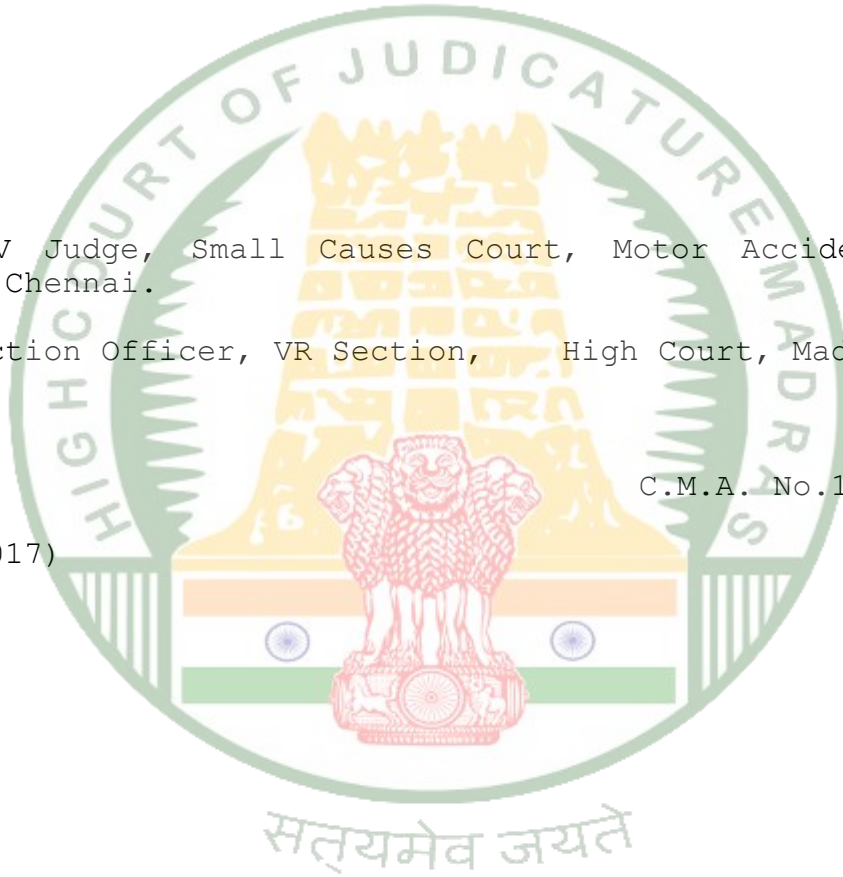
arr/ksa

To

1. The IV Judge, Small Causes Court, Motor Accident Claims Tribunal, Chennai.
2. The Section Officer, VR Section, High Court, Madras.

C.M.A. No.197 of 2017

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ss(10/5/2017)



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