

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.12.2017

CORAM

THE HONOURABLE Tmt.JUSTICE S.RAMATHILAGAM

C.M.A.No.833 of 2008

and

M.P.1 of 2008

The Managing Director,
Tamil Nadu State Transport Corporation,
Ltd., (Division I) Villupuram.

... Appellant/Respondent

Versus

P.Bhuvaneshwari

.. Respondent/Claimant

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 16.6.2007 and made in M.C.O.P.No.332/2003 on the file of Motor Accidents Claims Tribunal (Additional District Court) Fast Track Court No.3 Vridhachalam.

For appellant : Mr.S.V.Vasanthakumar

For Respondent: ***Mr.T.Chezian**

JUDGMENT

This appeal has been filed against the Judgment and Decree dated 16.06.2007 passed in M.C.O.P.No.332/2003 on the file of Motor Accidents Claims Tribunal (Additional District Court-Fast Track Court No.3), Vridhachalam.

2. The brief facts of the case of the claimant is that on 22.07.1999 at about 3.30.p.m, while the claimant was about to board the bus bearing Reg.No.TN-32-N-0131 belonging to the appellant-Transport Corporation, without noting the same, the driver of the bus moved the bus negligently and rashly, as a result of which, the claimant fell down and sustained fracture

injury and other injuries. She was taken to the Cuddalore Government Hospital, where she took treatment. Hence, she has made a claim of compensation of Rs.2,00,000/-, against the Transport Corporation before the Tribunal.

3. Before the Tribunal, on the side of the claimant, the claimant examined herself as P.W.1, besides examining on Dr.Rathinasapathy as P.W.2 and marked six documents as Ex.P.1 to Ex.P.6. On the side of the Transport Corporation, neither oral nor documentary evidence was adduced.

4. The Tribunal, after analysing the entire evidence, has come to the conclusion that the accident has occurred due to rash and negligent act of the driver of the bus. By coming to such a conclusion, the Tribunal made the calculation and passed an award for a total sum of Rs.98,000/-. The break up details of the compensation amount are as follows:-

Transportation	-	Rs. 2,000/-
Extra-nourishment	-	Rs.10,000/-
Pain & Sufferings	-	Rs.30,000/-
Towards 41% disability	-	Rs.41,000/-
Loss of earning capacity	-	Rs.15,000/-
Total	-	Rs.98,000/-

5. Aggrieved over the award passed by the Tribunal, the appellant -Transport Corporation has filed this appeal on the grounds that the evidence of the driver of the bus was considered by the Tribunal and the contributory negligence on the part of the claimant has also not been considered by the Tribunal. Further, according to the Transport Corporation, the compensation amounts awarded under the head of Loss of earning power and disability are on the higher side. Thus, it is the contention of the appellant that the compensation amount of Rs.98,000/- awarded by the Tribunal is without basis and without any materials evidence on record.

6. Heard the learned counsel on either side and perused the materials available on record.

7. The point for consideration is whether the award passed by the Tribunal is liable to be modified.

8. On a perusal of the materials available, it is seen that the Wound Certificate was marked as Ex.P.3, the Medical

certificate for fracture has been marked as Ex.P.4, Disability Certificate was marked as Ex.P.5, E-ray was marked as Ex.P.6. A perusal of the above said documents would speak about the nature of injuries sustained by the claimant and the period of treatment underwent by the claimant. It is seen that the claimant has taken treatment for a long time.

9. Based on the evidence of P.W.2-Doctor and the long period of treatment underwent by the claimant, the Tribunal has awarded a sum of Rs.30,000/- for pain and suffering, Rs.2,000/- for transportation and a sum of Rs.10,000 for pain and sufferings. Considering the Disability certificate(Ex.P.5), wherein the Doctor has fixed the disability suffered by the claimant at 41%, the Tribunal has awarded a sum of Rs.41,000/- for disability and a sum of Rs.15,000/- has been awarded by the Tribunal for loss of earning capacity. Thus, the Tribunal has passed an award for a total compensation of Rs.98,000/-. Considering the nature of injuries and the period of treatment, age and occupation of the claimant, the compensation amount awarded by the Tribunal cannot be said to be on the higher side. Hence, the compensation amount awarded by the Tribunal is hereby confirmed.

10. Hence, the Civil Miscellaneous Appeal is dismissed. The appellant-Transport Corporation is directed to deposit the entire compensation amount, with proportionate interest as awarded by the Tribunal, after deducting the amount if any already deposited, within a period of six weeks, from the date of receipt of a copy of this order. On such deposit being made, the claimant is entitled to withdraw the same by making necessary application before the Tribunal. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Asst.Registrar (CS IX)

dt.6.2.2018

*Counsel name of the respondent
is incorporated as per order
of Court dated.03.04.2018

Sd/-

Assistant Registrar(CS IV)

dt.17.4.2018

/true copy/

Sub Asst. Registrar

gmd

To

The (Additional District Court)
Fast Track Court,
No.3 Vridhachalam.

To be substituted to the
order despatched on 18.3.2018

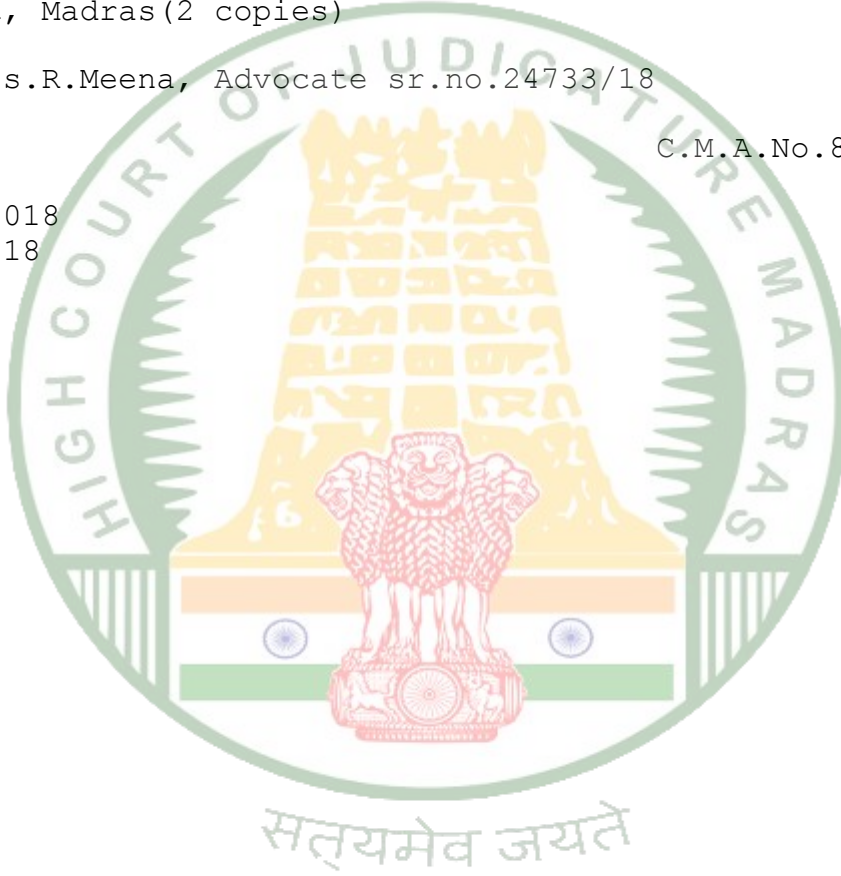
Copy to:

The Section Officer,
VR Section,
High Court, Madras (2 copies)

+1cc to M/s.R.Meena, Advocate sr.no.24733/18

C.M.A.No.833 of 2008

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