

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2018

CORAM

THE HONOURABLE TMT.JUSTICE S.RAMATHILAGAM

CMA.No.1256 of 2006
and
C.M.P.No.5251 of 2006

The Branch Manager,
United India Insurance Co. Ltd.,
85, Salem Road, Namakkal-1. Appellant

Versus

1. Tamilnadu State Transport Corporation Ltd.,
(Coimbatore Division No.3),
Ootacamund
rep. by its Divisional Manager
2. S.Chandrasekaran
3. C.R.Selvaraj Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 06.01.2005 made in M.C.O.P.No.1 of 2001 on the file of the Motor Accident Claims Tribunal, Sub Court at Nilgiris at Udhagamandalam.

For Appellant : Mr.M.B.Gopalan

For 1st respondent : Mr.S.V.Vasanthakumar

For 2nd & 3rd Respondents: -----

JUDGMENT

This Civil Miscellaneous Appeal is directed against the Judgment and Decree dated 06.01.2005 made in M.C..O.P.No.1 of 2001 on the file of the Motor Accident Claims Tribunal, Sub Court at Nilgiris at Udhagamandalam.

2. The brief facts leading to the claim application are as follows :-

On 21.06.1998, at 7.50 a.m, when the petitioner's driver was proceeding in the bus bearing Registration No. TN 43 0052 from Haasan to Coonoor near a bridge just after Chennarayanpatinam, a Gas Cylinder Trailor Lorry bearing Registration No.T.S.B.6699 which was driven by

its driver in a rash and negligent manner dashed against the bus and caused the damage. As a result, the bus sustained damages extensively at the front side body, wind screen glasses, both side view glasses, engine gear box, radiator grill, steering box, stepheny tyre and the chasis were also found bent. Hence, the petitioner claimed a sum of Rs.1,07,436./-

3. The 1st and 2nd respondents remained exparte before the Tribunal.

4. The alleged accident was not admitted by the 3rd respondent/Insurance Company in the counter statement and the damages claimed in the petition were also denied by the respondent Insurance Company. It is further stated that the Tribunal, even in the absence of Motor Vehicle report and other relevant documents relating to the repairs, has awarded a sum of Rs.1,07,436/- as compensation as claimed by the petitioner/ Transport Corporation. The sum awarded by the Tribunal is as follows:

Heads	Amount awarded by the Tribunal
For Actual material cost	1,05,436.00
For Administrative Expenses	5,000.00
TOTAL	1,07,436.00

Aggrieved against the said judgement and award, the Insurance Company who is the 3rd respondent in the claim application has preferred this appeal.

5. In the grounds of appeal, the appellant has stated that the Tribunal has awarded the sum as claimed by the claimant only on assumption without analysing any documents, hence, the sum awarded is not justified in the absence of any records and proof regarding the repairs and the damages caused on the bus.

6. Heard the learned counsel for the appellant as well as the learned counsel for the 1st respondent.

7. On the side of the appellant, it is argued that the claimant/respondent has not filed any document to prove the fact that the damages were caused to the bus was only due to the said accident and even, the Motor Vehicle Inspection report was also not produced before

the Tribunal. In the claim application, it has been stated that there were 9 damages caused on the very front side body of the bus. It is also contended by the respondent that the petitioner has been awarded a sum of Rs.1,07,436/- towards material cost and Rs.2000/- towards administrative expenses and in all, he has incurred a sum of Rs.1,07,436/-. The Tribunal has also awarded the said sum without any documents. It is argued by the appellant that in the absence of any documentary proof, the Insurance Company is liable to pay compensation only to the extent of Rs.6000/- and the Tribunal has no jurisdiction to award such huge amount. On a perusal of the award by the Tribunal, it is seen that there is no dispute with regard to the damages caused to the Transport Corporation Bus. Though it is a Government organization, for the maintenance of the bus, the damages and the claims whatever is fixed related to the vehicles that is being organised and maintained by the Transport Corporation, hence, proper account and relevant documents should be maintained. But, simply, the claim has been made by the claimant, by stating that the claimant has incurred the expenses of material cost at Rs.1,05,436/- and Rs.2000/- towards administrative expenses without any evidence and documents. It is argued by the learned counsel for the appellant that in any event, after 1994 Amendment to the Motor Vehicles Act, the claimant is not entitled to claim damages to any property of a third party over and beyond Rs.6000/-. Hence, in view of the arguments advanced by the learned counsel for the appellant that in the absence of any material documents to prove the damages and repairs done, the sum awarded by the Tribunal is not sustainable. Hence, this Court is of the view that the award passed by the Tribunal warrants interference. Accordingly, the award of Rs.1,07,436/- granted by the Tribunal in MCOP No.1 of 2001 is reduced to Rs.6,000/-. The said amount shall carry the same rate of interest as awarded by the Tribunal, namely, 9% per annum.

8. In the result, this Civil Miscellaneous Appeal is allowed by setting aside the award passed by the Tribunal dated 06.01.2005 in MCOP No.1 of 2001. No costs. Consequently, the connected miscellaneous petition is closed.

9. Accordingly, the appellant is directed to deposit a sum of Rs.6000/- in respect of above Appeal as per the modified award passed by this Court, with interest and costs, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to

transfer the claimant's bank account through RTGS within one week thereon. The Appellant is permitted to withdraw the excess amount deposited, if any.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Sub Court, Nilgiris at Udhagamandalam.

2. The Section Officer,
VR Section,
High Court, Madras

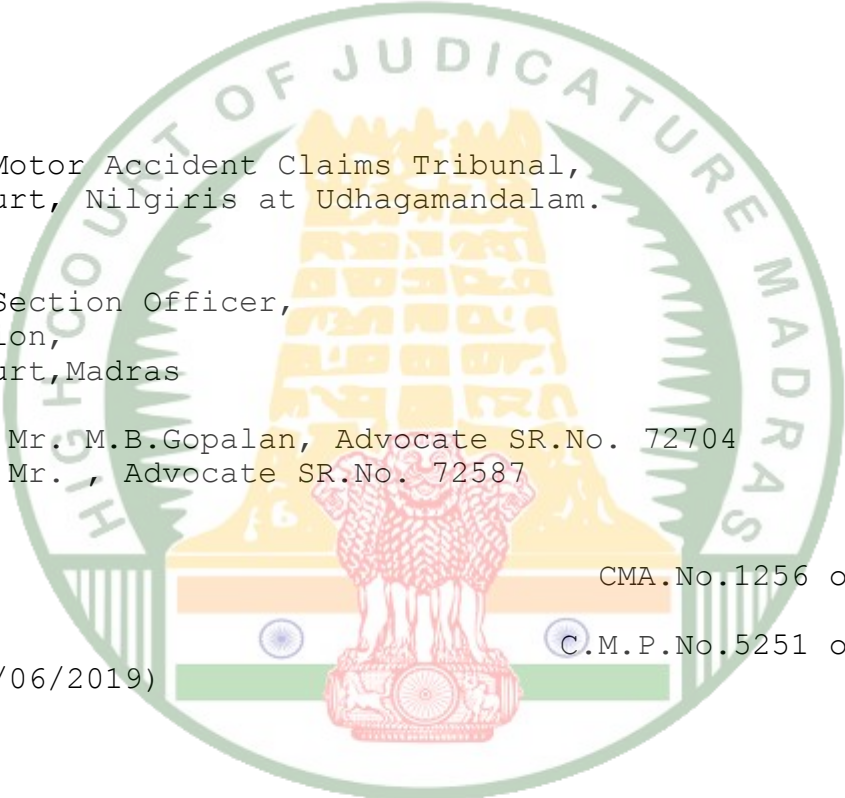
+1cc to Mr. M.B. Gopalan, Advocate SR.No. 72704

+1cc to Mr. , Advocate SR.No. 72587

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A.SK(04/06/2019)



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