

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 23.10.2018

CORAM:

THE HONOURABLE Tmt. JUSTICE S. RAMATHILAGAM

C.M.A.No.2020 of 2007
and
M.P.No.2 of 2007

The Managing Director,
Tamil Nadu State Transport Corporation
Dharmapuri. Appellant/Respondent

Versus

Loganathan Respondent/Petitioner

Prayer : Civil Miscellaneous Appeal filed under Sections 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 11.09.2006 made in M.C.O.P.No.450 of 2002 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Thiruvannamalai.

For Appellant : Mr.D.Venkatachalam

For Respondent : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 11.09.2006 made in M.C.O.P.No.450 of 2002 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Tiruvannamalai.

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

On 30.11.2001, at about 03.15 p.m, when the petitioner was proceeding in his bicycle from Singarapet to Thiruvannamalai, the bus bearing Registration No.TN 29 N 1299 which came behind the petitioner in a rash and negligent manner and hit against him and caused the accident. The claimant had also sustained severed injuries and he was given treatment and a criminal case was also registered for the said accident and for the loss of income, grievous injury, the petitioner claimed a sum of Rs.1,00,000/- as compensation.

3. The respondent/Transport Corporation in the counter statement denied the facts stated by the petitioner regarding the accident. When the driver of the said bus gave a caution on seeing a Lorry which came in the opposite direction and when the petitioner/cyclist also was proceeding in the mud road from the Thar Road, the body of the said bus had slightly touched the cyclist and hence, the accident was occurred and there is no rash or negligent driving on the part of the driver of the bus. It is the cyclist who was already observed the traffic rules had involved in the accident. The respondent has also denied the other aspects age, income and occupation of the claimant and also denied the claim of Rs.1,00,000/- as excessive.

4. The Tribunal, after analyzing the evidence and documents placed before it, had given finding that the accident had occurred only due to rash and negligent driving on the part of the said bus and also awarded a sum of Rs.45,800/- as compensation under the following two heads:

Heads	Award amount by the Tribunal
For Loss of Income	40,800.00
For Medical Expenses and Pain and sufferings	5,000.00
TOTAL	45,800.00

Aggrieved against the said order, the Managing Director of Tamil Nadu Transport Corporation has preferred this appeal.

5. In the grounds of appeal, the appellant/respondent has denied the finding of the Tribunal relating to the fact that there is a rash and negligent driving on the part of the driver of the bus. The further grievance is that there is no document regarding the treatment underwent by the claimant and also no relevant facts for assessing the disability at 30%. On the whole, the appellant has aggrieved against the finding of the Tribunal regarding the age, income of the claimant and hence, a sum of Rs.45,800/- awarded as compensation is not sustainable and prays for setting aside the award made by the Tribunal.

6. Heard the appellant side and also perused the documents available on record.

7. Regarding the rash and negligent driving on the part of the driver of the bus, it is observed that Ex.P1, FIR was registered against the driver of the bus. Ex.P2, Motor vehicle Inspection Report has also been filed before the Tribunal. As per the evidence of PW1 and the facts stated in the FIR and also the report of the Motor Vehicle Inspector, it is observed that

there is a rash and negligent driving on the part of the driver of the bus which resulted in the accident when the claimant was proceeding in the cycle on the left side of the road. Hence, the finding of the Tribunal regarding the negligence driving on the part of the driver of the bus is quite proper and based on the documents and evidence. Regarding the sum awarded as compensation, Ex.P3 Wound Certificate and Ex.P4 Accident Register have been marked. It is observed that the claimant sustained fracture of right lower radius and he was also under treatment and the Doctor who examined the claimant has given the disability at 30% is quite reasonable and in considering the nature of the injury, it is also perused that the claimant was a person of 33 years doing agriculture and he has stated that his income is Rs.3000/- per month. In the absence of any document, the sum taken by the Tribunal at Rs.2000/- per month is very much reasonable. Further, the injury sustained by the petitioner and the disability assessed by the Doctor has also been properly considered by the Tribunal and the sum arrived at Rs.40,800/- is not on the higher side. The sum awarded for pain and sufferings at Rs.5000/- is also not on the higher side. On the whole, the sum determined by the Tribunal based on the evidence and also the document viz., the disability certificate, the annual income, loss of income and compensation arrived on the above said basis are quite reasonable. Hence the award by the Tribunal and the finding of the Tribunal does not require any interference.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

9. Accordingly, the appellant/ Transport Corporation is directed to deposit the entire award amount by the Tribunal, with interest and costs, after adjusting the amount, if any, already deposited, 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 same to the claimant's bank account through RTGS within one week thereon.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

uma

To

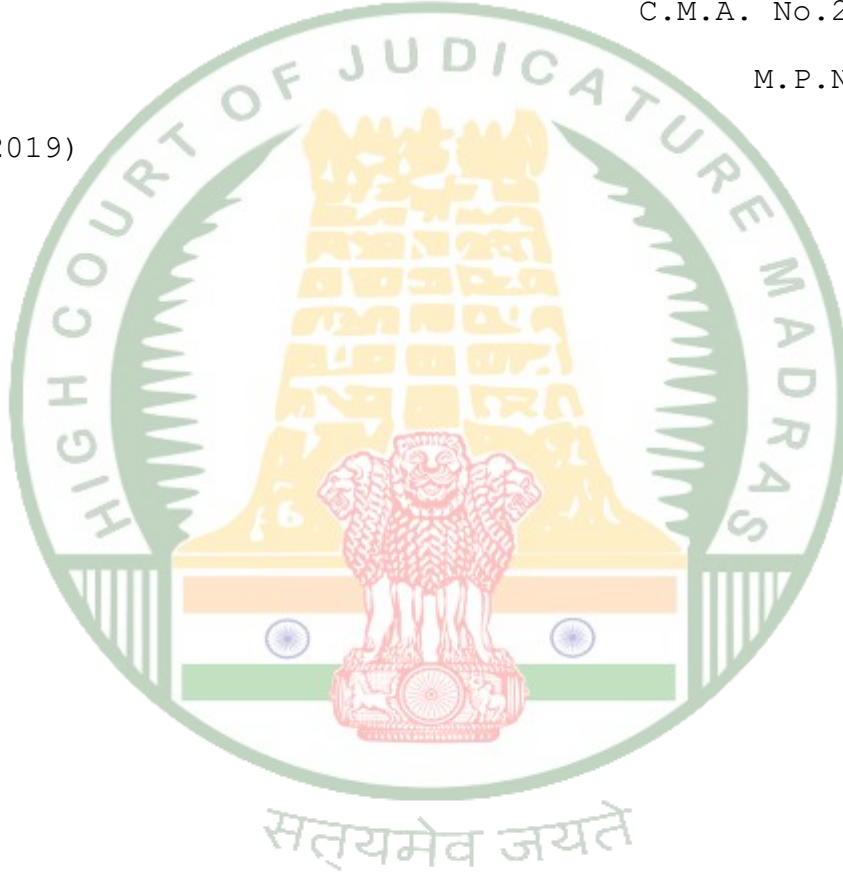
1. The Motor Accident Claims Tribunal,
Principal Subordinate Judge, Thiruvannamalai

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

+lcc to Mr.D.Venkatachalam, Advocate, S.R.No. 71909

C.M.A. No.2020 of 2007
and
M.P.No.2 of 2007

KS (CO)
GN(19/03/2019)



WEB COPY