

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2018

CORAM

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.NO.2706 OF 2006

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore.

...Appellant/Respondent No.2

Vs.

1. Palaniammal ...1st Respondent/Claimant
2. John Arul Prakash (R2 given up)
...2nd Respondent/Respondent No.1

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act 1988, against the award and decreetal order passed by the Motor Accidents Claims Tribunal, (Sub Court, Udumalaipet) made in MACTOP No.30 of 2003 dated 05.04.2005 praying to set aside the same.

For Appellant : Mr.S.V.Vasantha Kumar
For Respondents : R1 - Not ready
R2 - Given up.

JUDGMENT

The Managing Director, Tamil Nadu State Transport Corporation Ltd., Coimbatore / the second respondent in M.C.O.P. No.30 of 2003 on the file of the Subordinate Judge, Motor Accidents Claims Tribunal, Udumalpet, has filed the present appeal, questioning the quantum of compensation passed by the tribunal. The first respondent / claimant, in his Claim Petition in M.C.O.P. No. 30 of 2003, had sought compensation of Rs.3,00,000/- for the injuries sustained by her in a road accident that took place on 01.12.2000. According to her, when she was about to board the bus belonging to the present appellant, the driver of the bus, without ensuring whether the first respondent boarded the bus, took the bus rashly and negligently, as a result of which, the first respondent fell down from the bus and sustained injuries. The tribunal after analysing the evidence on record, awarded a compensation of Rs.1,36,000/- together with interest at the rate of 9% per annum to the claimant. Aggrieved over the quantum of compensation

awarded by the tribunal, the appellant / second respondent, has filed this present appeal under Section 173 of the Motor Vehicle Act 1988.

2. Mr. S.V.Vasantha Kumar, learned counsel appearing for the appellant would contend that, the injured was aged about 65 years on the date of accident and that the tribunal awarded an exorbitant compensation of Rs.1,36,000/- to the first respondent/claimant. His another contention is that the first respondent / claimant also contributed to the accident. A perusal of copies of the documents, viz., First Information Report (Ex.P1), Motor Vehicle Inspector's Report (Ex.P3), Rough Sketch (Ex.P4), Charge sheet (Ex.P5) and the final Report (Ex.P6), clearly shows that the driver of the present appellant was rash and negligent in driving his vehicle. It is also pertinent to point out that the driver of the Transport vehicle, before moving the vehicle, should ensure whether all the passengers got into the bus. In the instant case, since the driver of the bus failed in his duty, the negligent was fixed on the part of the driver of the appellant bus. As far as the quantum of compensation is concerned, Dr.S.Krishnaraj, has assessed partial permanent disability as 20%. The medical records adduced on the side of the first respondent / claimant, clearly shows that the first respondent / claimant sustained head injuries and there was a blood clot in the brain. Apart from that, there was a fracture in her left temporal bone. The various heads, under which the tribunal has awarded the compensation is extracted hereunder:

Sl.No.	Head	Amount (Rs.)
1.	Partial Permanent disability	15,000/-
2.	Pain and sufferings	20,000/-
3.	Medical Expenses	80,000/-
4.	Attender charges	10,000/-
5.	Nourishment expenses	10,000/-
6.	Transportation charges	1,000/-
	Total	1,36,000/-

3. Merely because the first respondent / claimant is aged 65 years, the award amount cannot be reduced, especially, when the Doctor has assessed partial permanent disability as 20%. By any stretch of imagination, the award passed by the tribunal can be said to be on the higher side.

4. Accordingly, the Civil Miscellaneous Appeal is dismissed.
No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

bga

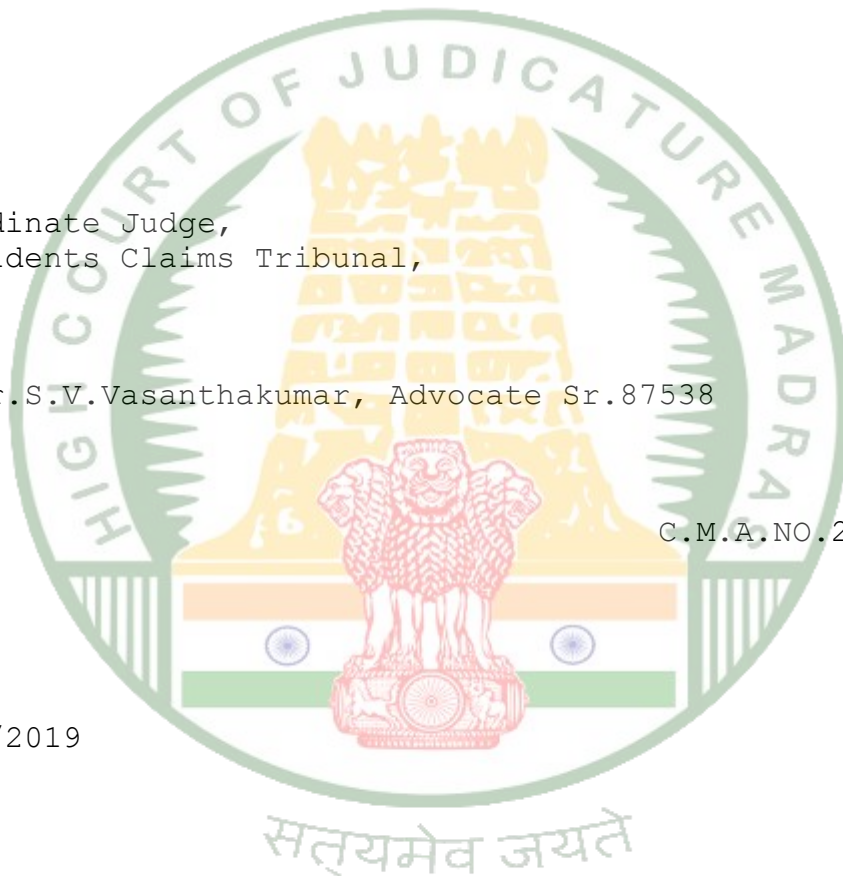
To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Udumalpet.

+1cc to Mr.S.V.Vasanthakumar, Advocate Sr.87538

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