

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 23.10.2018

CORAM:

THE HONOURABLE Tmt. JUSTICE S. RAMATHILAGAM

C.M.A.No.2995 of 2007

and

M.P.No.3 of 2007

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division, Head Office,
Ooty. ... Appellant/2nd Respondent

Versus

1. Nanjammal
2. Balan (Driver Given up)
... Respondents/Petitioner/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Sections 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 08.04.2003 made in M.C.O.P.No.725 of 1998 on the file of the Motor Accident Claims Tribunal, Additional District Judge, (Fast Track Court I) Coimbatore.

For Appellant : Mr.K.J.Sivakumar

For Respondents : -----

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 08.04.2003 made in M.C.O.P.No.725 of 1998 on the file of the Motor Accident Claims Tribunal, Additional District Judge, (Fast Track Court I), Coimbatore.

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

On 25.02.1998 at about 06.00 p.m, when the petitioner was sitting in front of the Tea Stall, the bus bearing Registration No. TN 43 N 0143 which belonged to the 1st respondent came in a rash and negligent manner while trying to overtake a Jeep and hit against the petitioner and caused fracture injuries to the petitioner and the petitioner was admitted in the hospital and given treatment. The petitioner has also suffered disability and she claimed a sum of Rs.3,00,000/- as compensation.

3. The respondent/Transport corporation in the counter statement denied the mode of accident and also the negligent driving on the part of the driver of the bus. The respondent has also stated that it is only because of the petitioner who was hit by another lady and there is no carelessness or negligence on the part of the bus driver. The other aspects regarding the age, income and occupation are all denied by the respondent. Further, the sum claimed by the petitioner is also stated as excessive in the absence of any document.

4. The Tribunal after perusal of the evidence and documents placed before it, has given a finding that it is the driver of the bus who drove the bus in a rash and negligent manner. It is argued by the appellant that though in the criminal case registered against the driver with regard to the said accident, he was not found guilty, but, based on the evidence, the Tribunal has given a finding that the accident had occurred only due to the rash and negligent driving on the part of the driver of the bus. While determining the claim made by the claimant, the Tribunal has considered the documents Ex.P6, Accident Register along with the details of the treatment and the medical bills, Ex.P3 and awarded a sum of Rs.85,000/- as compensation under various heads as follows:

For the injuries sustained by	
the claimant	: Rs. 50,000.00
Pain and Sufferings	: Rs. 25,000.00
Medical Expenses	: Rs.10,000.00

	Rs.85,000.00

Aggrieved against the said award, the 2nd respondent/Transport Corporation has preferred this appeal.

5. In the grounds of appeal, the appellant has stated that there is no evidence placed before the Tribunal for assessing the injury and the disability sustained by the claimant. The sum awarded for disability at Rs.50,000/- is very much excessive and that amount ought not to have granted without ascertaining the actual percentage of disability. The sum awarded for pain and sufferings at Rs.25,000/- and medical expenses at Rs.10,000/- without any proof are also highly excessive.

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

7. On a perusal of records, though it is argued on the negligent aspect and the award made by the Tribunal, the main argument advanced by the learned counsel for the appellant is only on the quantum. On verifying the records, it is observed

that immediately after the accident, the claimant was admitted in the Ooty Government Hospital and then, subsequently she was shifted to Coimbatore Medical College Hospital, wherein she was given treatment from 26.02.1998 to 27.04.1998 and his one left toe was also amputated. These facts are very much revealed before the Tribunal and it is also stated that the petitioner was 40 years at the time of accident and she fairly claimed that she is a coolie. While considering the nature of occupation as coolie and also the period of treatment, injury and the disability sustained by the claimant, a sum of Rs.50,000/- is awarded by the Tribunal is not at all on the higher side as contended by the appellant. Since there is amputation of one finger in the left toe, considering the period of treatment and surgery undergone by the petitioner, the award of Rs.25,000/- is not an excessive amount. Regarding the sum awarded for medical expenses at Rs.10,000/- is very much reasonable when comparing to the treatment taken nearly for 3 months. The appellant/2nd respondent has not stated anything specifically regarding the sum awarded by the Tribunal is excessive. But the sum awarded by the Tribunal at Rs.85,000/- against the claim of Rs.3,00,000/- is very much reasonable. Hence, this Court is of the view that the finding of the Tribunal and the sum awarded by the Tribunal are proper and reasonable and 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.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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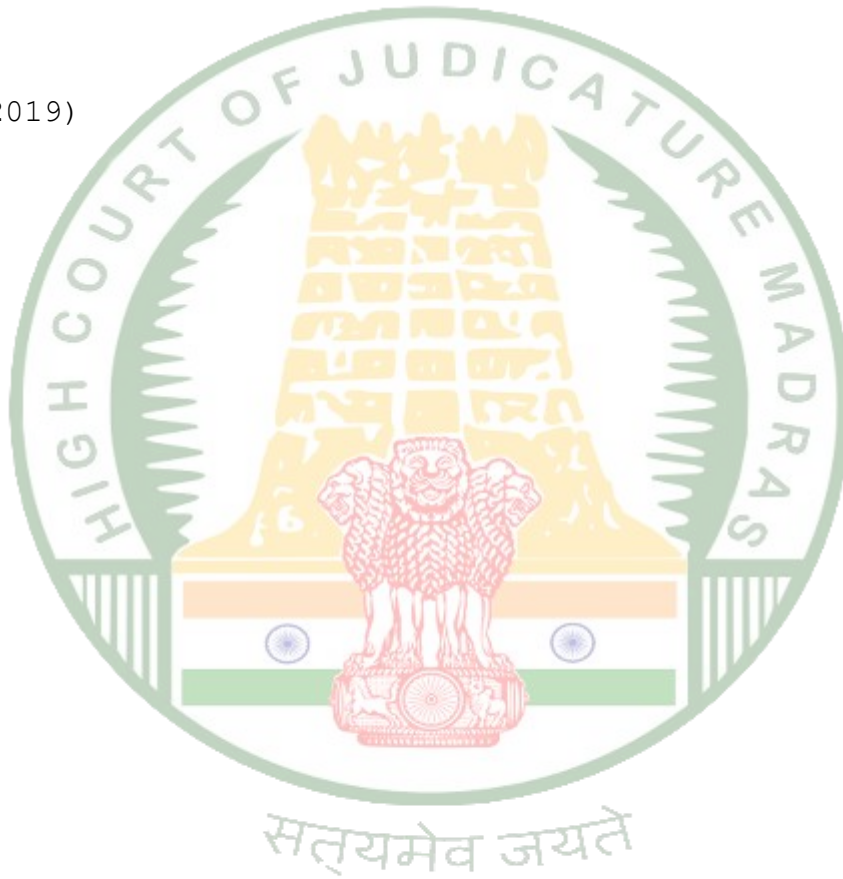
1. The Motor Accident Claims Tribunal
Additional District Judge,
(Fast Track Court I) Coimbatore.

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

+1 CC to Mr.K.J.Sivakumar, Advocate sr 72056.

C.M.A. No.2995 of 2007
and
M.P.N.3 of 2007

NM(CO)
SP(03/01/2019)



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