

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07.12.2017

Pronounced on : 03.04.2018

C O R A M

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.604 of 2014 & M.P.No.1 of 2014

The General Manager,
Tamil Nadu Transport Corporation Ltd.,
(Villupuram Division-II),
Rangapuram, Vellore-9, Vellore District ...Appellant/Respondent

Vs.

Thillai ..Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal file under Section 173 of Motor Vehicles Act, 1988, to set aside the decree and Judgment passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Vellore made in M.C.O.P.No.170 of 2012 dated 04.10.2013.

For Appellant : Mr.S.V.Vasanthakumar

For Respondent : Mr.A.Gouthaman

JUDGMENT

The appellant herein is the General Manager of Tamil Nadu Transport Corporation and he has filed this appeal against the Judgment and decree in M.C.O.P.No.170 of 2012 dated 04.10.2003 passed by the Motor Accidents Claims Tribunal (Chief Judicial Magistrate Court), Vellore, challenging the quantum of the compensation awarded by the Tribunal.

2 The respondent herein is the claimant before the Tribunal. It is the case of the claimant that he was working as a driver in Vidya Nikethan Matriculation School, Gandhi Nagar, Vellore. On 03.09.2011 at about 1.15 p.m., he was travelling in a bus bearing Registration No.TN-23-N-1677 belonging to the appellant/Transport Corporation, from Vellore Bus stand to his house at Virupatchipuram and while he was alighting from the bus at Virupatchipur bus stop, the driver of the bus had driven the bus in a rash and negligent manner, without seeing the passengers alighting from the bus, due to which the claimant had

fallen down from the bus and sustained head injuries. Hence, the claimant/injured person claimed a sum of Rs.10,00,000/- as compensation.

3 Before the Tribunal, the case of the claimant was resisted by the Transport Corporation by filing a detailed counter denying the case projected by the claimant.

4 On the side of the claimant, the claimant has examined himself as PW.1 and a Doctor was examined as PW.2 and eleven documents were marked as Ex.P1 to Ex.P11. On the side of the appellant/Transport Corporation, the driver of the bus was examined as R.W.1 and no document was marked.

5 After considering oral and documentary evidence adduced on either side, the Tribunal held that the accident had occurred only due to the rash and negligent driving of the driver of the appellant-Transport Corporation. By coming to such a conclusion, the Tribunal made the calculation under different heads and passed an award for a total sum of Rs.4,51,150/- as compensation payable to the claimant with interest at the rate of 7.5% p.a. The break up details of the compensation amount awarded by the Tribunal are as follows:-

For Disability (45%)	Rs. 45,000/-
For pain and Sufferings	Rs. 45,000/-
For loss of earnings(36X4000)	Rs.1,44,000/-
For Extra nourishment	Rs. 25,000/-
For medical expenses	Rs.1,89,650/-
For Transportation	Rs. 2,000/-
For damage of cloth and articles	Rs. 500/-
Total	Rs.4,51,150/-

Aggrieved over the award by the Tribunal, the appellant-Transport Corporation has filed the present appeal.

6 The learned counsel for appellant/Transport Corporation submitted that if the accident had occurred in the manner described by the injured/claimant, the general public and the passengers travelling in said bus, would not have allowed the bus to proceed further. Hence, the negligence fixed by the Tribunal on the part of the driver of the bus is not correct.

7 Further, the learned counsel for the appellant/Transport Corporation would submit that the Tribunal has erred in fixing the disability suffered by the claimant/victim at 45%. Further, according to the learned counsel for the appellant, the compensation awarded by the Tribunal under the heads of Pain and suffering, for the loss of earning, medical expenses and extra nourishment are on the

higher side.

8 Per contra, the learned counsel for the respondent/claimant made his submissions supporting the award passed by the Tribunal.

9 On a perusal of the records, it is seen that Ex.P1 is the FIR which was registered only as against the driver of the bus and the evidence of PW1 also reveals the fact that accident occurred only due to the negligent driving of the driver of the bus. Hence, the respondent/Transport Corporation is liable for compensation. While considering the aspect of disability, the claimant/victim has sustained injury on the head which caused occipital and cerebella bleed. Further, for the injury sustained by the claimant, he was treated and scan was also taken. The disability certificate was given by PW2, who has assessed the disability suffered by the victim at 45%. Ex.P10 is the Disability Certificate given to that effect and that has been properly considered by the Tribunal. In respect of the compensation under the head of pain and suffering, it is seen that the Tribunal by considering the injuries sustained by the victim on the head and also the treatment that was undergone by him, has rightly calculated the amount under the said head, which needs no interference from this Court. As regard the compensation under the head of loss of earning capacity, it is seen that the Tribunal has taken into consideration the fact that the claimant/injured was working as driver in a private school and he would have earned Rs.4,000/- per month. Job certificate was marked as Ex.P9. Considering the injuries suffered by the claimant, the Tribunal by holding that he would have disabled from his duty atleast for three years, has awarded a sum of Rs.1,44,000/- for the loss of earnings, which cannot be said to be on the higher side. Similarly, the compensation amounts awarded by the Tribunal under other heads viz., extra nourishment, medical expenses, transportation and damages to articles also appear to be very reasonable. Considering the facts and circumstances of the case, this Court is of the opinion that after considering the materials available on record in a proper perspective, the Tribunal has passed the award for a total sum of Rs.4,51,150/-, which does not require any interference from this Court. There is no merit in the appeal and the same is liable to be dismissed.

10 In the result, this Civil Miscellaneous Appeal stands dismissed and the award of the Tribunal in M.C.O.P.No.170 of 2012 dated 04.10.2013 is confirmed. The Transport Corporation is directed to deposit the compensation amount with interest as awarded by the Tribunal, if not already deposited, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant is entitled to withdraw the

same together with accrued interest. No costs. Consequently,
connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1 The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate Court,
Vellore.

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

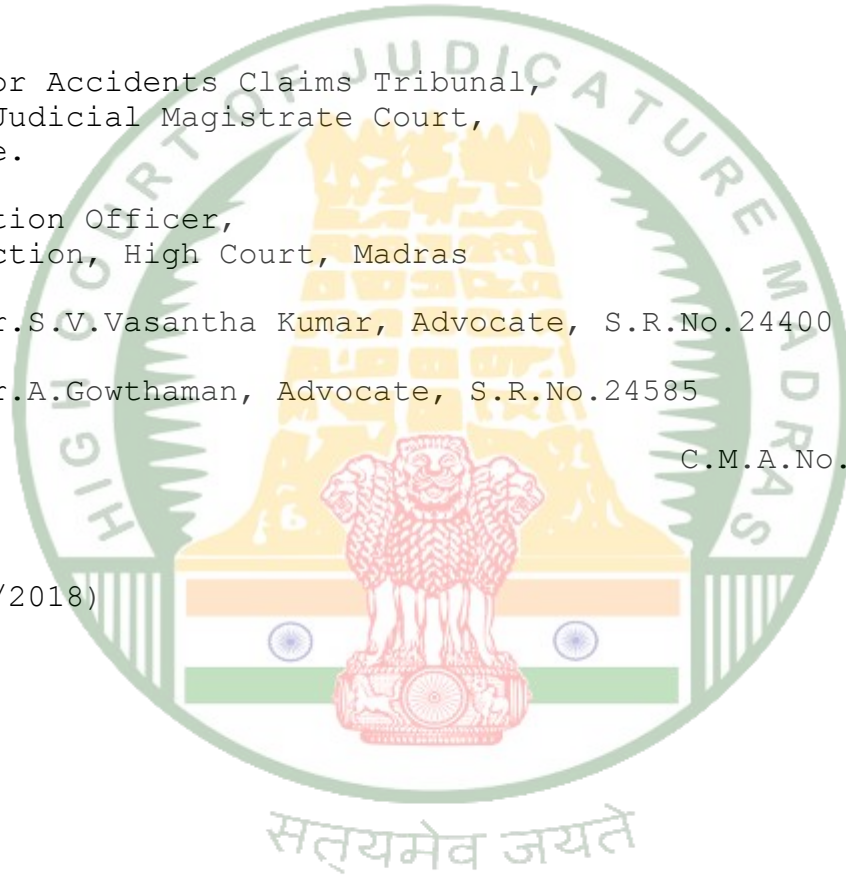
+1cc to Mr.S.V.Vasantha Kumar, Advocate, S.R.No.24400

+1cc to Mr.A.Gowthaman, Advocate, S.R.No.24585

C.M.A.No.604 of 2014

GJ(CO)

RRK(03/04/2018)



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