

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1107 of 2010

and

M.P.No.1 of 2010

Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division I, 37, Mettupalayam Road,
Coimbatore. ... Appellant/ 2nd Respondent

..Vs..

1.Govindasamy

2.S.Palani ...Respondents/ petitioners/ Respondents
(R2 given up)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 27.03.2008 passed in M.C.O.P.No.1534 of 2000 by the learned Sub Judge, Motor Accident Claims Tribunal, Dharapuram.

For Appellant : Mr.S.S.Swaminathan

For Respondents: No appearance (R1)

R2 -Given up

J U D G M E N T

The instant appeal has been filed by the Transport Corporation challenging the Award dated 27.03.2008 passed by the Motor Accident Claims Tribunal, Dharapuram in M.C.O.P No.1534 of 2000.

The brief facts leading to the filing of the instant appeal are as follows:-

2. The first respondent sustained injuries as a result of an accident that took place on 06.06.2000 caused by a bus bearing registration No. TN 38 N 0773 owned by the Appellant/Transport Corporation. The first respondent preferred a compensation claim for a sum of Rs.3,00,000/- before the Motor Accident Claims Tribunal in MCOP. No.1534 of 2000. The Motor Accident Claims Tribunal by its award dated 27.03.2008 passed in MCOP No.1534 of 2000 directed

the appellant to pay a sum of Rs.98,112/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.

3. Aggrieved by the Award dated 27.03.2008 passed by the Motor Accident Claims Tribunal in MCOP. No.1534 of 2000, the instant appeal has been filed by the Appellant / Transport Corporation.

4. Heard Mr.S.S.Swaminathan, learned counsel for the Appellant. Despite service of notice on the respondents and their names having been printed in the cause list today, none appears on behalf of the respondents.

5. According to the learned counsel for the Appellant, the primary ground for challenge in the instant appeal is that the Tribunal has erroneously awarded a sum of Rs.40,000/- to the first respondent for loss of future earning capacity. According to the learned counsel for the appellant, the first respondent was only an agricultural labourer and no document was filed before the Tribunal to establish his monthly income and therefore, the Tribunal ought not to have awarded a sum of Rs.40,000/- in favour of the first respondent towards loss of future earning capacity.

6. This Court after having considered the materials available on record and after examining the impugned Award and after hearing the submissions of the learned counsel for the appellant, observes the following:

a) The appellant has not disputed the injuries sustained by the first respondent as a result of the accident caused by the bus owned by the appellant / Transport Corporation.

b) Pursuant to an impugned order granted by this Court, the Appellant has already deposited the entire award to the credit of MCOP. No.1534 of 2000 and the first respondent has also been permitted to withdraw the balance amount barring a sum of Rs. 40,000/- which is disputed by the Appellant in the instant appeal.

c) The accident, which resulted in the first respondent sustaining injuries, took place in the year 2000. Due to the long passage of time, this Court is of the considered view that a sum of Rs.40,000/- awarded to the first respondent towards loss of earning capacity is a reasonable and just compensation.

7. In view of the above observations, this Court is of the considered view that there is no merit in the instant appeal and the appeal is dismissed without costs. Consequently, connected miscellaneous petition is closed.

8. Accordingly the first respondent is permitted to withdraw the amount along with the accrued interest lying to the credit of MCOP.No.1534 of 2000 on the file of the Motor Accident Claims Tribunal, Dharapuram by filing an appropriate application.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

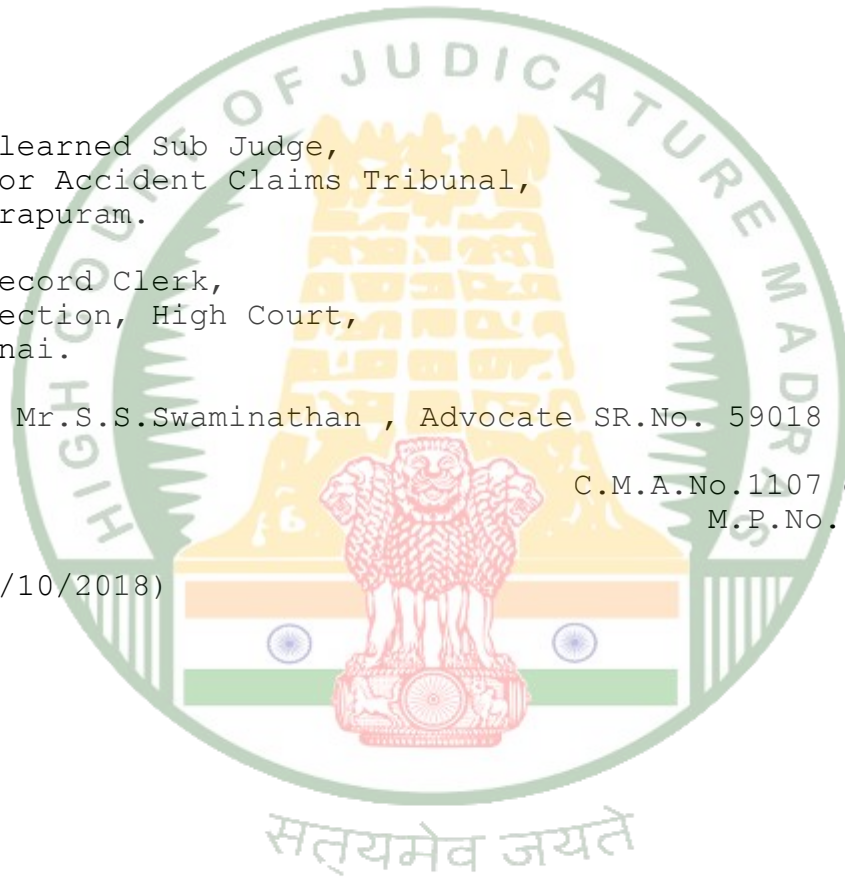
1. The learned Sub Judge,
Motor Accident Claims Tribunal,
Dharapuram.

2.The Record Clerk,
VR Section, High Court,
Chennai.

+1cc to Mr.S.S.Swaminathan , Advocate SR.No. 59018

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ASK(25/10/2018)



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