

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1681 of 2010

and

M.P.No.1 of 2010

Metropolitan Transport Corporation,
Represented by its Managing Director, Chennai,
Pallavan House, Anna Salai,
Chennai - 2

... Appellant

..Vs..

M.Nithyanandam

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 31.03.2008 in MCOP. No.2375 of 2004 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes, Chennai).

For Appellant : Mr.M.Deivanandam

For Respondent : No appearance

J U D G M E N T

The instant appeal has been filed by the Transport Corporation challenging the Award dated 31.03.2008 passed by the Motor Accident Claims Tribunal (III Court of Small Causes, Chennai) in M.C.O.P No.2375 of 2004.

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

2. The respondent sustained injuries as a result of an accident caused by a bus bearing registration No. TN01 N 3263 owned by the Appellant/Transport Corporation. The respondent preferred a compensation claim for a sum of Rs,2,00,000/- before the Motor Accident Claims Tribunal in MCOP. No.2375 of 2004. The Motor Accident Claims Tribunal by its award dated 31.03.2008 passed in MCOP No.2375 of 2004 directed the appellant to pay the respondent a sum of Rs.81,000/- together with interest at the rate of 12% per annum from the date of claim till the date of realisation and also awarded costs against the respondent.

3. Aggrieved by the Award dated 31.03.2008 passed by the Motor Accident Claims Tribunal in MCOP. No.2375 of 2004, the instant appeal has been filed by the Appellant /Transport Corporation.

4. Heard Mr.M.Deivanandam, learned counsel for the Appellant. Despite service of notice on the respondent and his name having been printed in the cause list today, none appears on behalf of the respondent.

5. According to the learned counsel for the Appellant, the primary ground for challenge in the instant appeal is that without there being any evidence to show that the respondent was disabled from attending the job for a period of four months, the Tribunal has awarded the compensation for the said period towards loss of earning capacity in favour of the respondent. The learned counsel for the Appellant would further contend that the interest awarded by the Tribunal at 12% per annum is excessive and not in accordance with the settled principles of law.

6. This Court after having considered the materials available on record and after examining the impugned Award and after hearing the submissions of the respective counsels, observes the following:

a) The Tribunal has given a clear finding based on oral and documentary evidence that the respondent was disabled from attending the job for a period of four months due to the injury sustained by the respondent as a result of the accident.

b) The interest awarded by the Tribunal at 12% is not excessive and in accordance with the settled principles of law.

c) The compensation awarded by the Tribunal is a just and reasonable compensation and does not call for any interference.

7. In view of the above observations, this Court is of the considered view that there is no merit in the instant appeal. Accordingly, the Appeal is hereby dismissed.

8. Accordingly, the Appellant is directed to deposit the entire Award amount awarded by the Tribunal along with interest from the date of claim till the date of realisation to the credit of MCOP. No.2375 of 2004 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai, after deducting the amount that has already been deposited by them within a period of four weeks from the date of receipt of a copy of this Order. On such deposit being made, the respondent is permitted to withdraw the amount lying to the credit of MCOP.No.2375 of 2004 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai with accrued

interest by filing an appropriate application. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

s/d-
Assistant Registrar(CS VIII)

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Sub-Assistant Registrar

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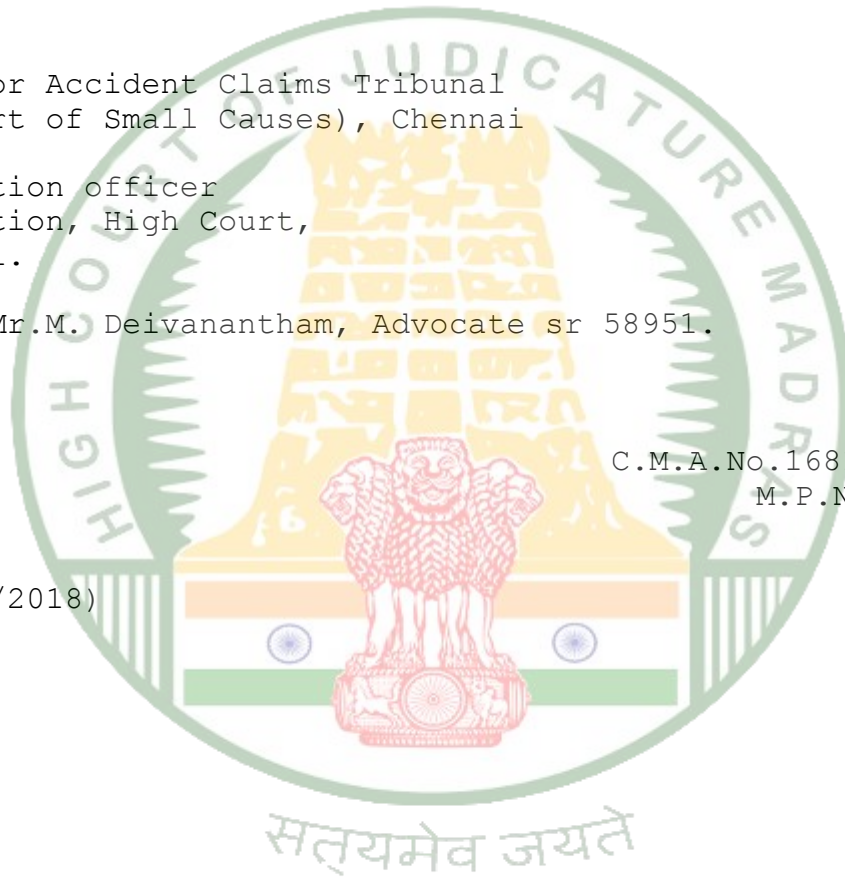
1.The Motor Accident Claims Tribunal
(III Court of Small Causes), Chennai

2.The Section officer
VR Section, High Court,
Chennai.

+1 CC to Mr.M. Deivanantham, Advocate sr 58951.

C.M.A.No.1681 of 2010 &
M.P.No.1 of 2010

SJ(CO)
GSP(16/10/2018)



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