

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.1671 & 1672 of 2008
and
M.P.No.1 of 2008

Messers State Express Transport Corporation Ltd.,
Represented by its Managing Director,
Pallavan Salai,
Chennai - 600 002. ...Appellant/2nd Respondents in Both C.M.As.

Vs

1. P. Vijayakumar ...Petitioner/Respondent in
C.M.A.No.1671 of 2008
2. M.Balasybramaniam ...1st Respondent/Respondent in
C.M.A.No.1671 of 2008
1. K.Vasudevan ... Petitioner/Respondent in
C.M.A.No.1672 of 2008
2. M.Balasubramaniam ...1st Respondent/Respondent in
C.M.A.No.1672 of 2008

Common Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgement and decree made in M.A.C.T.O.P.Nos.51 & 562 of 2001 respectively on the file of the Motor Accident Claims Tribunal (Additional District Judge, Fast Track Court 5) at Tiruppur dated 23.08.2005.

For Appellant : Mr.M.Krishnamoorthy
(in both C.M.As)

For Respondents : Not Ready in notice
- R1 in both CMAS
- R2 given up
(in both C.M.As)

C O M M O N J U D G M E N T

The instant appeals have been filed by the Transport Corporation challenging the common Award dated 23.08.2005 passed by the Motor Accidents Claims Tribunal, (Additional District Judge, Fast Track Court 5) at Tiruppur in M.A.C.T.O.P.Nos.51 & 562 of 2001 respectively.

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

(i)The Bus bearing Registration No. TN-01-N-6757 owned by the appellant transport corporation collided with an Ambassador Car bearing Registration No.TN - V- 6259 on 28.11.2000 at about 09.30.P.M. As a result of the accident, one of the occupants of the Ambassador Car namely P.Vijayakumar, the first respondent in C.M.A No. 1671 of 2008 sustained injuries. The Ambassador Car also suffered damages caused by the bus owned by the appellant Transport Corporation. The first respondent in C.M.A.No.1671 of 2008 preferred a claim before the Motor Accidents Claims Tribunal in M.A.C.T.O.P. No.51 of 2001, seeking a compensation of Rs.3,00,000/-. The first respondent in M.A.C.T.O.P.No. 562 of 2001 preferred a claim before the Motor Accidents Claims Tribunal, seeking a compensation of Rs.1,75,000/- for the damages suffered by the Ambassador Car due to the rash and negligence driving by the driver of the bus owned by the appellant Transport Corporation.

(ii)The Motor accident Claims Tribunal, by its common award dated 23.08.2005 in M.A.C.T.O.P.No. 51 of 2001 and M.A.C.T.O.P.No. 562 of 2001 directed the appellant Transport Corporation to pay the first respondent in C.M.A.No.1671 of 2008 a sum of Rs.55,000/- together with interest at 7.5% per annum from the date of claim till the date of realisation and directed the appellant/Transport Corporation to pay the first respondent in C.M.A.No.1672 of 2008 a sum of Rs.95,000/- together with interest at 7.5% per annum from the date of claim till the date of realisation.

(iii)Aggrieved by the common award dated 23.08.2005 passed in M.A.C.T.O.P.No.51 of 2001 and M.A.C.T.O.P.No. 562 of 2001, the instant appeals have been filed by the Transport Corporation.

3.Heard Mr.M.Krishnamoorthy, learned counsel for the appellant. The notice has not been served on the first respondent in the instant appeals. Since the appeals pertain to the year 2008 and this court is going to confirm the award, there is no necessity to serve the notice on the respondents.

4.According to the learned counsel for the appellant, the primary ground for challenge in both the appeals is that the driver of the Ambassador Car was under the influence of alcohol at the time of the accident and therefore, the appellant Transport Corporation is not liable to compensate the first respondent in C.M.A.Nos. 1671 and 1672 of 2008 respectively.

5.Before the Tribunal, the claimants have filed 20 documents namely Ex.P1 to Ex.P.20 which are marked as Ex.P1 to P.20 and on their side 4 witness were examined as PW.1 to PW.4. On the side of the appellant 2 documents were filed and were marked as Ex.R1 and R2 and one witness was examined namely RW1.

6.The claimants have also produced medical bills for having incurred expenses towards the treatment for the injuries sustained by them as a result of the accident. These bills were also marked as exhibits before the tribunal.

7.The bills for a total amount of Rs.94,423/- was also filed by the claimant before the tribunal which was marked Ex.P17 to establish that a sum of Rs.94,423/- was incurred for carrying out repair to the damaged Ambassador Car.

8. The tribunal has awarded a sum of Rs.55,000/- in favour of the first respondent in C.M.A.No.1671 of 2008 as compensation for the injuries sustained by him as a result of the accident caused by the bus owned by the appellant Transport Corporation. Similarly, a sum of Rs.95,000/- was awarded to the first respondent in C.M.A.No.1672 of 2008 for the damages caused to the vehicle. The Tribunal in both the cases has awarded compensation based on the documents produced by the respective claimants.

9. No contra evidence has been produced before the Tribunal by the appellant to disprove the claim of the respective claimants.

10. In view of the above observations, this Court is of the considered view that the Tribunal has awarded a just compensation to the respective claimants. Accordingly, there is no merit in the instant appeals and the appeals are dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

AT

To

1. The Motor Vehicles Accidents Claims Tribunal,
Additional District Judge, Fact Track Court 5,
Coimbatore at Tiruppur.

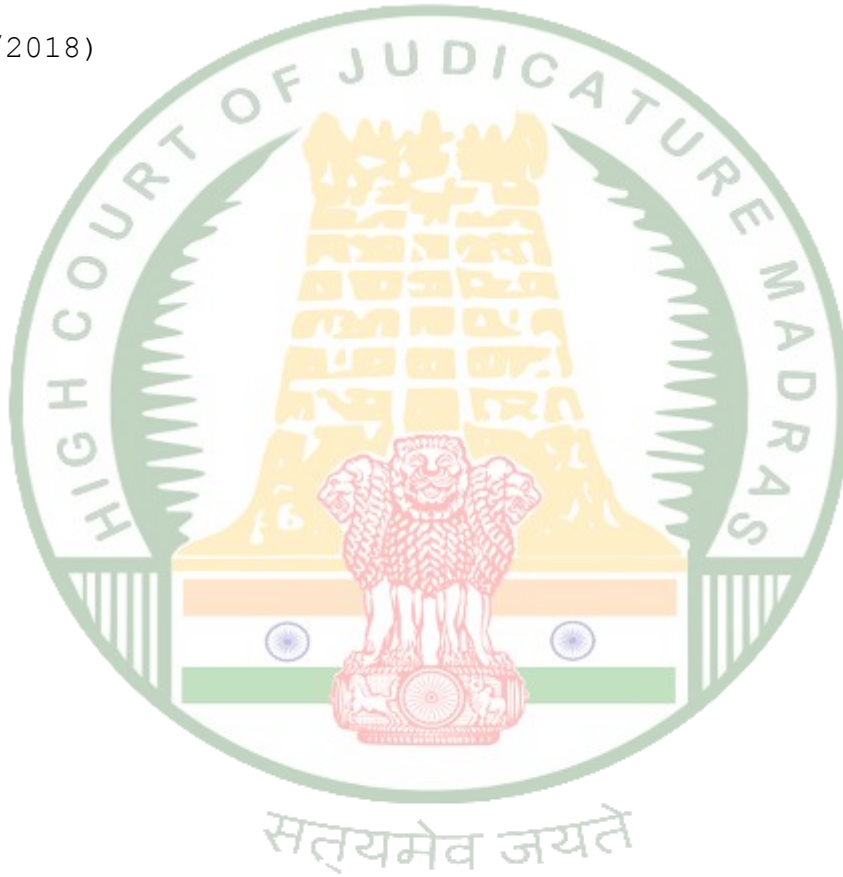
2.The Section Officer,
VR Section,
High Court, Madras.

+2cc to Mr.M.Krishnamoorthy, Advocate SR.No.63218, 63219

C.M.A.Nos.1671 & 1672 of 2008

RSJ (CO)

GMV (26/10/2018)



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