

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.3222 of 2008 &
M.P.No.1 of 2008

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

Vs.

K.N.Bineesh ...Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgement and Decree dated 04.08.2006 in MCOP. No. 1135 of 2002 on the file of Additional District Judge (Fast Track Court -II), Motor Accident Claims Tribunal, Chennai.

For Appellant : Mr.Deivanandam

J U D G M E N T

The instant appeal has been filed by the Transport Corporation challenging the Award dated 04.08.2006, passed by the Motor Accidents Claims Tribunal, Chennai, (Fast Track Court -II), in MCOP No.1135 of 2002.

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 that took place on 10.02.2002 caused by a bus bearing registration No.TN01-N-2323 owned by the Appellant Transport Corporation. The respondent preferred a compensation claim before the Motor Accidents Claims Tribunal in MCOP.N.1135 of 2002 seeking compensation of Rs.2,50,000/-. The Motor Accident Claims Tribunal by its Award dated 04.08.2006 passed in MCOP.No.1135 of 2002 directed the Appellant to pay the respondent a sum of Rs.1,00,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realization.

3. Aggrieved by the Award dated 04.08.2006 passed in MCOP No.1135 of 2002, the instant appeal has been filed by the Transport Corporation.

4. Heard Mr. Deivanandham, learned Counsel for the Appellant. Till date, notice has not been served on the respondent. Since this Court is going to confirm the Award, there is no necessity to serve the notice on the respondent.

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 Rs.10,000/- towards pain and suffering as well as awarded Rs.30,000/- towards grievous injuries sustained by the respondent. According to the learned counsel for the Appellant, it amounts to double compensation under the same head.

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) It is an undisputed fact that the respondent was working in a Tea Shop as a cashier and he sustained fractures in both the bones in the left leg and also sustained multiple injuries all over the body, as a result of the accident. He was also treated as an inpatient in the hospital between 10.02.2002 and 18.02.2002.

(b) Even though, in his claim petition, the respondent has claimed that he was earning Rs. 150 per day which amounts to Rs.4,500/- as monthly salary, the Tribunal has not given any finding under the impugned Award as to his monthly salary. The Appellant has also not let in any evidence before the Tribunal to disprove the claim of the respondent that he was earning Rs. 150 per day amounting to Rs.4,500/- as his monthly salary.

(c) The nature of injuries sustained as a result of the accident would certainly have impaired the respondent from doing his regular work for a period of time. Admittedly, he was also hospitalised for taking treatment for the injuries sustained by him as a result of the accident.

(d) Even though, the Tribunal has awarded Rs.10,000/- towards pain and suffering and has also separately awarded Rs.30,000/- towards grievous injury which may amount to double compensation, ultimately the respondent will have to be adequately compensated for the injuries sustained by him. In the instant case, the Tribunal has not awarded any amount towards medical expenses. Since it is an undisputed fact that the

respondent had to undergo hospitalization for a period of time as a result of the injuries sustained by him due to the accident, the Tribunal ought to have awarded adequate compensation towards medical expenses to the respondent. But under the impugned Award, no such compensation was awarded to the respondent.

7. In the light of the above observations, this Court is of the considered view that the Award passed by the Tribunal awarding a sum of Rs.1,00,000/- is a just compensation. Therefore, there is no merit of the instant appeal. Accordingly, the appeal is dismissed without costs. Consequently, connected Miscellaneous Petition is closed.

8. The Appellant is directed to deposit the amount awarded by the Tribunal together with interest, after deducting the amount that has already been deposited, to the credit of MCOP.No. 1135 of 2002 on the file of Additional District Judge (Fast Track Court -II), Motor accident claims Tribunal Chennai, 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. 1135 of 2002 on the file of Additional District Judge (Fast Track Court -II), Motor accident claims Tribunal Chennai, by filing an appropriate application.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

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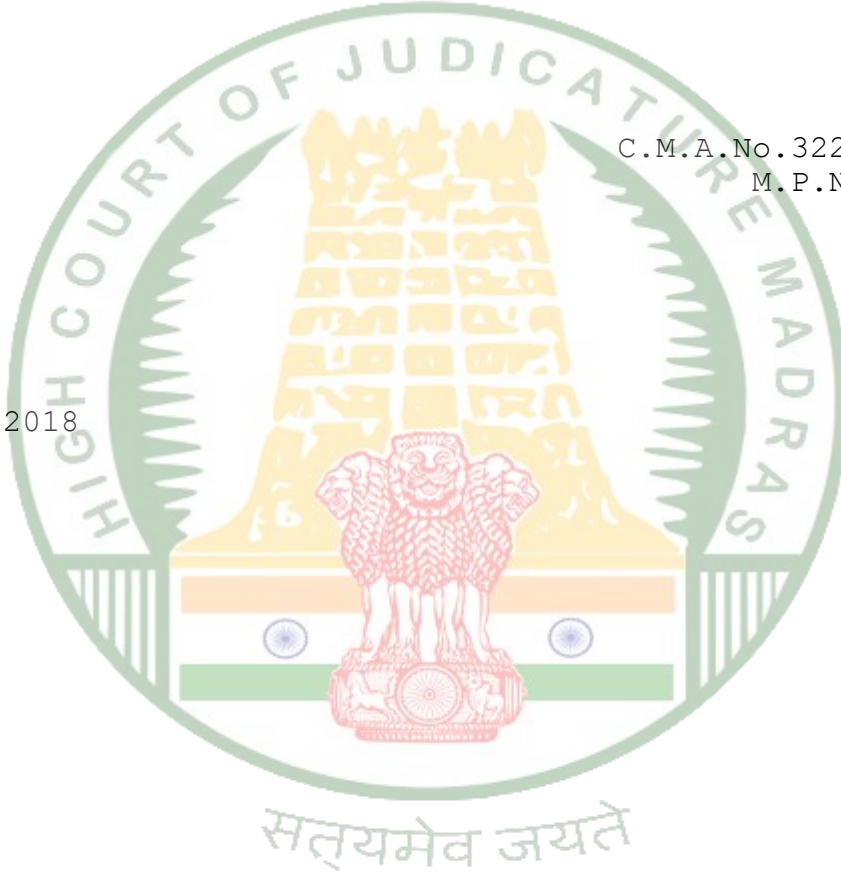
1. The Motor Accident Claims Tribunal,
Additional District Judge
Fast Track Court -II
Chennai.

2.The Managing Director,
Metropolitan Transport Corporation,
Pallavan House, Annasalai,
Chennai-2.

+lcc to Mr.M.Deivanandam, Advocate Sr.63002

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srg 23/10/2018



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