

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.922 of 2008
and M.P.No.1 of 2008

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Villupuram Division - 3,
Kancheepuram. Appellant/ respondent

Vs

K.Ulaganathan ... Respondent / petitioner

PRAYER : Civil Miscellaneous Appeal filed against
the Judgment and decree dated 30.06.2006 made in
M.C.O.P.No.1588 of 2000 on the file of the Motor Vehicles
Accident Claims Tribunal (Fast Track Court IV), Chennai
-1.

For Appellant : Mr.K.J.Sivakumar
For Respondent : No appearance

J U D G M E N T

Aggrieved over the award passed by the Motor
Vehicles Claims Tribunal, Fast Track Court IV, Chennai-1,
in MCOP. No.1588 of 2000 dated 30.06.2006, the
appellant herein, who is the respondent in the above said
MCOP, has filed this Appeal.

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

On 19.11.1999 at about 18:30 hrs when the
respondent (Ulaganathan) was travelling in the
appellant's bus bearing Reg.No.TN 21-N0044 proceeding
from Kancheepuram to Tiruttani and when the bus was
nearing Kouram Railway gate, at that time the driver of
the bus drove the bus in a rash and negligent manner and
dashed against a poll near the railway gate and the
respondent suffered injuries. The respondent made a claim
before the Tribunal for a sum of Rs.5,00,000/-. The
Tribunal by its judgment and decree dated 30.06.2006 in
MCOP No.1588 of 2000 awarded compensation of

Rs.1,35,000/- to the respondent together with interest at 7.5% per annum from the date of claim till the date of realisation. Aggrieved by the award passed by the Tribunal, the instant appeal has been filed by the appellant/Transport Corporation.

3. Heard Mr. K.J.Sivakumar, learned counsel appearing for the appellant. Even though notice has not been served on the respondent and since the appeal relates to the year 2008 and this Court is confirming the award, there is no necessity to serve notice on the respondent.

4. The primary ground for challenge raised in the instant appeal is that the Tribunal failed to consider that the accident was caused only due to the negligence and fault on the other lorry driver. According to the appellant/Transport Corporation when the lorry was driven in a rash and negligent manner, the appellant's Bus was forced to be side lined. According to the appellant, the respondent was travelling in the foot board of the appellant's corporation bus and therefore he is not entitled for any compensation for his own negligence. Further the learned counsel contended that there was no 50% disability suffered by the respondent and the claim made by the respondent is an exaggerated one. According to the appellant, the Tribunal has also erroneously awarded a sum of Rs.25,000/- towards "Mental Agony" to the respondent.

5. As seen from the findings of the Tribunal, the respondent was 21 years at the time of accident and he was doing II year Engineering and was a passenger in the bus owned by the appellant Corporation. The respondent has filed 15 documents as exhibits namely Ex.P1 to Ex.P15. Exhibits marked on the side of the respondent includes discharge summary obtained from the respective hospitals and also medical certificates. As evident from the documents marked as exhibits it is clear that for one and half months, the respondent was under hospitalisation due to the injuries suffered by him on account of the accident.

6. The respondent has also filed the disability certificate (Ex.P.14) to prove his disability before the Tribunal. The Tribunal has considered all these exhibits and only thereafter has passed an award for a sum of Rs.1,35,000/- in favour of the respondent. Even though the respondent had made a claim of Rs.5 lakhs before the Tribunal, the Tribunal awarded only a sum of Rs.1,35,000/- considering the actual loss suffered by the respondent. This Court does not find any infirmity in the findings of the Tribunal.

Accordingly there is no merit in the instant appeal and the appeal is dismissed. No costs. Connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS vii)

//True Copy//

Sub Assistant Registrar

dpq

To

The Motor Accident Claims Tribunal
(Fast Track Court IV), Chennai -1.

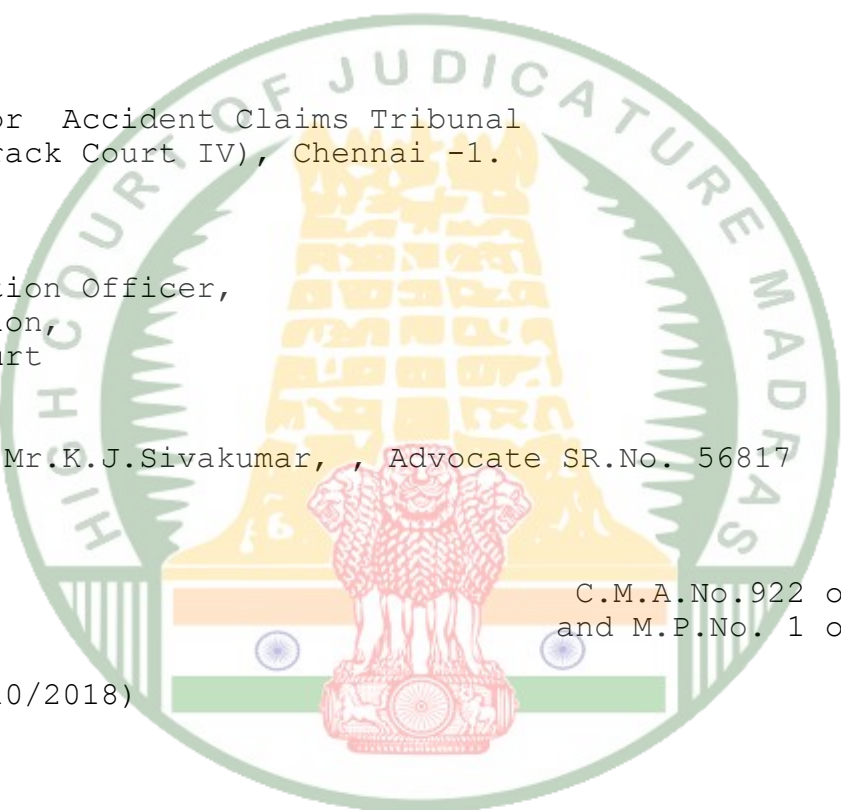
copy to:

The Section Officer,
VR section,
High court
Madras.

+1cc to Mr.K.J.Sivakumar, , Advocate SR.No. 56817

C.M.A.No.922 of 2008
and M.P.No. 1 of 2008

ASK(03/10/2018)

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. The gopuram is flanked by two green trees. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a green circle around the central image. Below the gopuram is a red lion capital on a base. At the bottom of the seal, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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