

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.1221 of 2006

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Erode Division,
Erode.Appellant/Respondent

.Vs.

Minor K.P.Arutchezhian Minor rep by
natural guardian and his father
K.PannerselvamRespondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 12.09.2005 in M.C.O.P.No.1455 of 2003 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.I, Salem.

For Appellant : Mr.N.Anand

For Respondent : No appearance

JUDGMENT

The appellant, Managing Director, Tamil Nadu State Transport Corporation Limited, has filed the present appeal against the orders dated 12.09.2005 passed by the Additional District Judge, Fast Track Court No.I, Salem in M.C.O.P.No.1455 of 2003. The respondent / claimant filed the claim petition under Section 166 of the Motor Vehicles Act seeking compensation for the injuries sustained by him in a road accident on 12.05.2003.

2. The case of the claimant is that on 12.05.2003, he was travelling as a passenger in a bus bearing Registration No.TN 33 N 1544 belonging to the appellant from Salem to Chennai and at about 12.00 p.m, when the bus was nearing Kallakurichi, the driver of the bus drove the vehicle in a rash and negligent manner and hit a tamarind tree on the side of the road, as a result of which, the claimant sustained injuries all over his body.

3. According to the claimant, the rash and negligent driving of the driver of the bus bearing Registration No.TN 33 N 1544 belonging to the appellant was the cause of the accident and therefore, the appellant is liable to pay the compensation.

4. The appellant contested the claim petition. The learned Motor Accident Claims Tribunal / Additional District Judge, Fast Track Court No.I, Salem after analysing the evidence on record, awarded a compensation of Rs.41,900/- together with interest at the rate of 7.5% per annum to the claimant. Aggrieved over the orders passed by the Tribunal, the appellant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. The main contention of the claimant in the claim petition is that since a Tata Qualis Car attempted to overtake the bus, the driver of the bus in order to avoid hitting the car, turned swerved to his left hand side and hit a tamarind tree. The appellant, therefore had sought for fixing the contributory negligence on the driver of the Tata Qualis Car.

6. Heard Mr.N.Anand, learned counsel appearing for the appellant. No appearance on behalf of the respondent.

7. The Tribunal after considering both oral and documentary evidence had held that the driver of the bus was rash and negligent in driving his vehicle. It also pertinent to point out that the driver of the Tata Qualis Car was not examined. The claimant who had examined himself as PW1 had clearly deposed that the driver of the bus was rash and negligent. No contra evidence was adduced on the side of the appellant and the Tribunal had given cogent reasons for coming to such a conclusion. All the observations made by the Tribunal are perfectly in order and do not warrant any interference by this Court.

8. As far as quantum of compensation is concerned, the claimant had sustained multiple fractures and he was also hospitalized for 5 days. In the facts and circumstances, the Award of Rs.41,900/- passed by the Tribunal cannot be said to be exorbitant.

9. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

(ii) The appellant, Tamil Nadu State Transport Corporation Limited is directed to deposit the compensation amount i.e., Rs.41,900/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.1455 of 2003 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court

No.I, Salem within a period of four weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made, the respondent / claimant is at liberty to withdraw the same after following due process of law.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

mtl

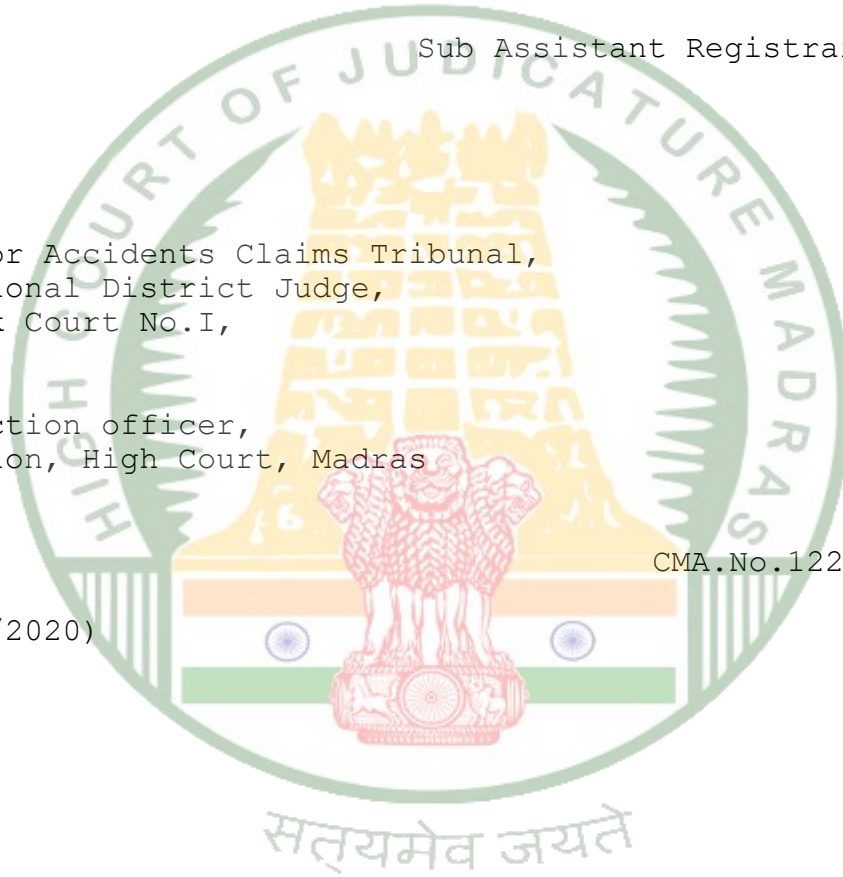
To

1.The Motor Accidents Claims Tribunal,
The Additional District Judge,
Fast Track Court No.I,
Salem.

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

CMA.No.1221 of 2006

CNR(CO)
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