

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.2456 of 2006 and
M.P.No.1 of 2006

TamilNadu State Transport Corporation
Rep by its Managing Director
(Salem Division) Ltd,
Salem.Appellant/2nd Respondent

..Vs..

1. Venkatachalam

2. Velusamy

... Respondents/Petitioner/Ist Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree passed on 15.03.2006, in M.C.O.P.No. 247 of 2005, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate, Erode).

For Appellant : Mr.P.Jagadeeswaran

For Respondents: R1-not ready
R2-Given up

JUDGMENT

The appellant, the Tamil Nadu State Transport Corporation, Salem represented by its Managing Director, Salem division is the second respondent in M.C.O.P.No. 247 of 2005, on the file of the Motor Accident Claims Tribunal, Chief judicial Magistrate, Erode.

2.The first respondent/claimant filed the above said claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.4,00,000/- for the injuries sustained by him in a road accident that took place on 01.02.2005, when he was riding his two wheeler, TVS 50, bearing Registration No. TN 33 P 8299, near Central bus stand, Erode. According to him, a speeding bus bearing Registration No. TN 27 N 1449, belonging to

the appellant, hit the two wheeler ridden by the him, as a result of which, he sustained grievous injuries all over his body. His further contention is that the rash and negligent driving of the driver (second respondent) of the Tamil Nadu State Transport Corporation was the cause of the accident and therefore they are liable to pay compensation to him.

3. The present appellant and the driver of the said bus contested the claim petition. The learned Chief Judicial Magistrate, Motor Accidents Claims Tribunal, Erode after analysing the evidence on record, awarded a compensation of Rs.82,000/- together with interest at the rate of 7.5% per annum to the first respondent/claimant.

4. Aggrieved over the quantum of compensation awarded by the tribunal, the appellant, the Tamil nadu State Transport Corporation have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988 .

5. Mr.P.Jagadeeswaran, learned counsel appearing for the appellant would contend that the tribunal has awarded a huge compensation of Rs.82,000/- to the first respondent/claimant without any basis and therefore, the same has got to be reduced.

6.No appearance for the respondents.

7.A perusal of the Discharge Summary (Ex.P10) shows that the first respondent/claimant has sustained the following injuries:

"Multiple abrasions running across right deltoid muscle, each 3" x linear x skin deep over an area of 3 x 3"..

Abrasion over right knee 1x1" x skin deep.

A contusion 2 x 2" over dorsum of right hand over IV, III, II metacarpal bone.

A lacerated wound 1 x 1.5" x bone deep over middle left anteriorly.

Evidence of fracture as the distal end of leg is hanging down."

8. Dr.V.P.Sundharavadivel (PW2) has assessed the partial permanent disability as 25%. The tribunal after considering the various aspects, awarded a sum of Rs.82,000/- together with interest at the rate of 7.5% per annum to the first respondent/claimant. The award passed by the tribunal under various heads is extracted hereunder:

S.No	Head	Amount granted
1.	Partial permanent disability	Rs.25,000/-
2.	Pain and sufferings	Rs.10,000/-
3.	Loss of income	Rs.5,000/-
4.	Loss of earning capacity	Rs.10,000/-
5.	Medical expenses	Rs.32,000/-
Total		Rs.82,000/-

9. A perusal of the award passed by the tribunal clearly shows that the tribunal has awarded a just compensation and by no stretch of imagination, it can be said to be on the higher side. Infact, no cross objections or appeal is filed by the first respondent/claimant and therefore the quantum of compensation awarded by the tribunal is upheld.

10. In the result,

i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently the connected Miscellaneous Petition is also dismissed.

(ii) The order passed by the tribunal is upheld.

(iv) The appellant is directed to deposit the entire compensation awarded by the tribunal (less the amount already deposited by them) 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 in M.C.O.P.No. 247 of 2005, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate, Erode) within a period of four weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(CCC)

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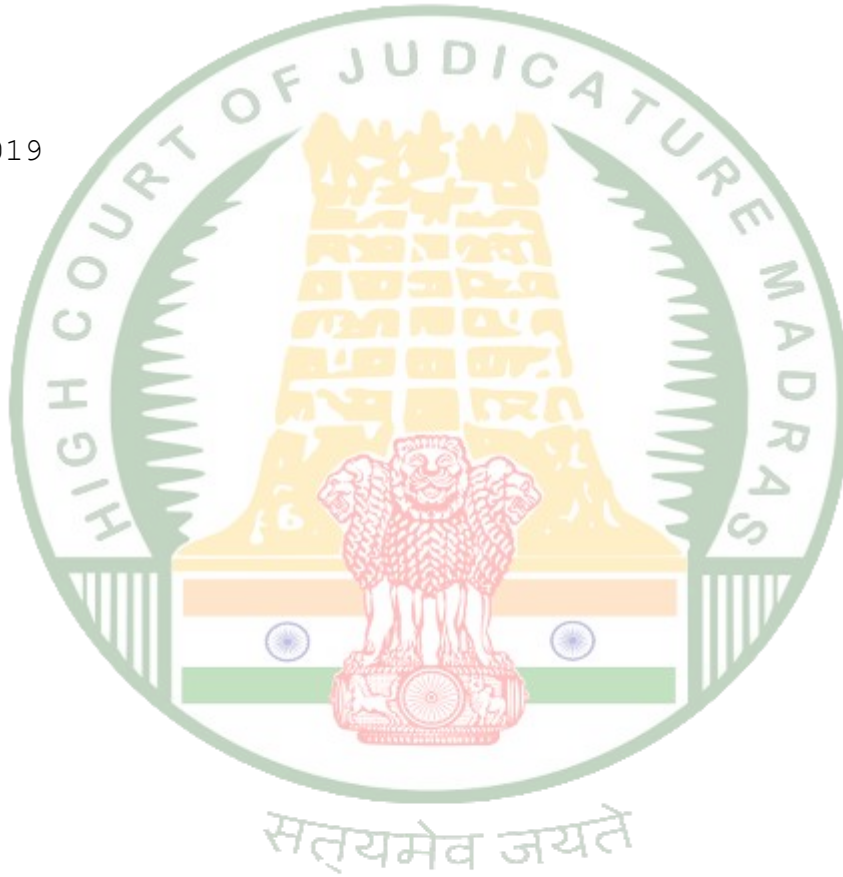
Sub Assistant Registrar

To

- 1.The Motor Accident Tribunal
Chief Judicial Magistrate Court,
Erode.
- 2.The Section Officer,
VR Section, High Court, Madras.

C.M.A.No.2456 of 2006

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srg 8/5/2019



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