

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.1797 of 2008
& M.P.No.1 of 2008

The Managing Director
Tamil Nadu State Transport Corporation Limited
Periyamilaguparai
Collector Office Road
Trichy -1 Appellant

Vs

1. Kasiyammal
2. Selvaraj
3. The New India Assurance Company Ltd
M.A.Lane, T.P.Road
Palakat, Namakkal District Respondents / Claimant /
owner of the vehicle /
Insurer.

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 28.08.2006 made in M.C.O.P.No.214 of 2005 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur.

For Appellant : Mr. S.V.Vasanthakumar
For Respondents : R1 - Ms.S.Sujatha
(Legal Aid Counsel)
R3 - Mr.J.Michael Visuvasam

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Tamil Nadu State Transport Corporation Limited, challenging the quantum of compensation awarded by the Claims Tribunal.

2. On 01.10.2003 at about 09.15 pm near Sanamangalam Cross Road, while the claimant was travelling in the Transport Corporation Bus, a lorry bearing Reg.No.TDL 6433, came behind the said bus, tried to overtake another lorry and applied sudden break and at that time, the Transport Corporation Bus lost its

control, and dashed against the lorry, due to which, including the claimant, few passengers got severe injuries. In respect of the above said accident, the claimant has filed a petition for compensation claiming a sum of Rs.2,00,000/-. As against the said claim, the Tribunal has awarded a sum of Rs.54,550/- as total compensation. Against which, the Transport Corporation has filed the present Civil Miscellaneous Appeal.

3. Heard both sides.

4. The Tribunal has framed the following issues for consideration:

i) On whose negligence the accident had occurred, whether it was due to rash and negligent act of the driver of the Transport Corporation Bus bearing Reg.No. TN 45 N 1103 or driver of the Lorry bearing Reg. No.TDL 6433?

ii) Whether the claimant is entitled to receive compensation from the respondents, if so, to what extent?

5. Before the Tribunal, PW1 and PW 2 were examined, Ex.P.1 to Ex.P.5 were marked and M.O.1 was also marked, on the side of the claimant. On the side of the defence, two witnesses were examined as RW1 and RW 2 and EX.R.1 was marked.

6. The Tribunal, by taking into consideration the oral and documentary evidence adduced on both sides and by considering the nature of injuries sustained by the claimant, held that the accident had occurred only due to the rash and negligence driving of both the drivers of the Transport Corporation Bus and the lorry and assessed the compensation at Rs.54,550/- payable equally by the appellant herein and the third respondent herein. The break-up details of the award passed by the Tribunal are as follows:-

S.No	Head	Compensation (in.Rs.)
1.	Towards Disablement compensation	25,200.00
2.	Towards grievous injuries	5,000.00
3.	Towards Transport expenses	12,350.00
4.	Towards loss of earnings	12,000.00
Total		54,550.00

7. The learned Counsel appearing for the appellant as well as the 3rd respondent submitted that the Tribunal erred in fixing the disability at the rate of 42%, as the disability may

also be coupled with the age of the claimant i.e 45 years at the time of accident.

8. This Court considered the said submission made by the learned counsels and perused the materials available on record.

9. At the outset, it has to be pointed out that though the claimant submitted that he earned Rs.150/- per day, the Tribunal has taken the monthly income only at Rs.1,000/-, which is comparatively very low, since in an unorganized sector itself the monthly income is nowadays fixed at Rs.2,500/- minimum. Further, the Tribunal has considered the materials meticulously and rendered a finding that the accident had occurred only due to the rash and negligent driving of the drivers of the Lorry and the Transport Corporation bus. Moreover, the First Information Report marked before the Tribunal discloses the factum of collision between the vehicles, by way of detailed summary. The Tribunal has analysed the same in a threadbare manner and based on the materials available on record awarded the compensation to the claimant, which in the considered view of this Court, does not warrant any interference.

10. Further, this Court is of the opinion that the compensation awarded by the Tribunal is reasonable, weight of evidence and based on settled principles. Thus there is no ground to interfere with the judgment passed by the Tribunal below.

11. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Transport Corporation and the New India Assurance Company/3rd respondent herein shall jointly deposit the entire compensation amount, along with interests and costs, (in equal proportionate) as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the deposited amount to the Savings Bank Account of the claimant / injured / first respondent herein, through RTGS, within one week thereafter. Consequently, the connected MP is closed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

srk / vrn

To

1.The Motor Accident Claims Tribunal/Chief Judicial Magistrate
Perambalur

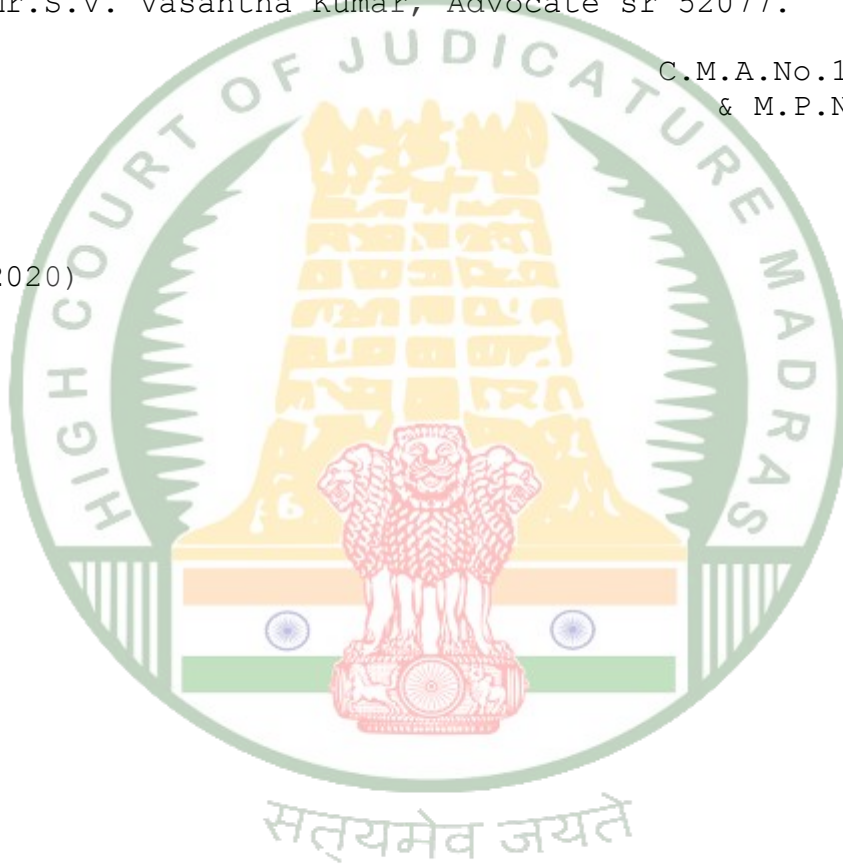
2. The Section Officer
V.R.Section
Madras High Court
Chennai 104

+1 CC to Mr.J.Michael Visuvasam, Advocate sr 51991.

+1 CC to Mr.S.V. Vasantha Kumar, Advocate sr 52077.

C.M.A.No.1797 of 2008
& M.P.No.1 of 2008

RGN(CO)
SP(31/01/2020)



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