

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3157 of 2005

and

C.M.P.No.16293 of 2005

The Managing Director,
State Express Transport Corporation Ltd.,
Chennai - 2. ... Appellant/ Respondent

Vs.

Kandeepan alias Gandhi ... Respondent/ Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 23.04.2004 made in M.C.O.P.No.899 of 2002 on the file of the Motor Accidents Claims Tribunal, Sub-Court, Tiruvallur.

For Appellant : Mr.M.Krishnamoorthy

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 23.04.2004 made in M.C.O.P.No.899 of 2002 on the file of the Motor Accidents Claims Tribunal, Sub-Court, Tiruvallur.

2.The facts of the case are that on 04.10.2002 at about 03.45p.m., the respondent/ claimant was riding his bicycle in the J.N.Road, Tiruvallur. At that time, the bus belonging to the appellant Transport Corporation, bearing Reg.No.TN-01-N-6608 came in a rash and negligent manner and hit the claimant. Due to the said impact, the respondent sustained grievous injuries. He filed a claim petition before the Tribunal claiming a sum of Rs.1,20,000/- as compensation. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant-Transport Corporation and directed the appellant-Transport Corporation to pay a sum of Rs.78,000/- as total compensation to the respondent/claimant.

3. Against the said award dated 23.04.2004 made in M.C.O.P.No.899 of 2002, the appellant/Transport Corporation has come out with the present appeal challenging the liability fastened on them as well as the quantum of compensation awarded by the Tribunal.

4. The learned counsel appearing for the appellant/Transport Corporation has submitted that the Tribunal has erred in holding that the driver of the appellant's bus was rash and negligent and was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is exorbitant and excessive.

5. Heard the learned counsel appearing for the appellant and perused the materials available on record.

6. Though this appeal was admitted way back in the year 2005, the appellant has not taken proper steps to serve papers on the other side even at this length of time. However, due to efflux of time, the appeal is taken up for final disposal, on merits.

7. From the materials available on record, it is seen that the respondent examined himself as P.W.1 and deposed that the accident had occurred only due to the rash and negligent driving of the driver of the bus. Ex.P1 is the First Information Report registered against the driver of the bus. The appellant has not let in any contra evidence to disprove the evidence of P.W.1. The Tribunal, considering the materials and evidence available on record, held that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation, which finding this Court is not inclined to interfere.

8. With regard to the quantum of compensation, the Tribunal has fixed the monthly income of the claimant at Rs.2,000/- and has awarded a sum of Rs.6,000/- towards loss of earning, on the ground that he would not have attended his duty for a period of 3 months. The monthly amount of Rs.2,000/- has been fixed in the absence of any evidence as regards the earning by running a mechanical shop. The Tribunal has also awarded a sum of Rs.1,000/- each towards extra nourishment and transport expenses, Rs.20,000/- towards pain and suffering and Rs.50,000/- towards permanent disability and loss of earning capacity. The Tribunal has correctly considered the materials and evidence and has arrived at the just compensation towards these heads and hence, the same need not be interfered by this Court.

9. In the result, the Civil Miscellaneous Appeal is dismissed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such

deposit being made, the respondent is permitted to withdraw the same, on making proper application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS I)

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Sub Assistant Registrar

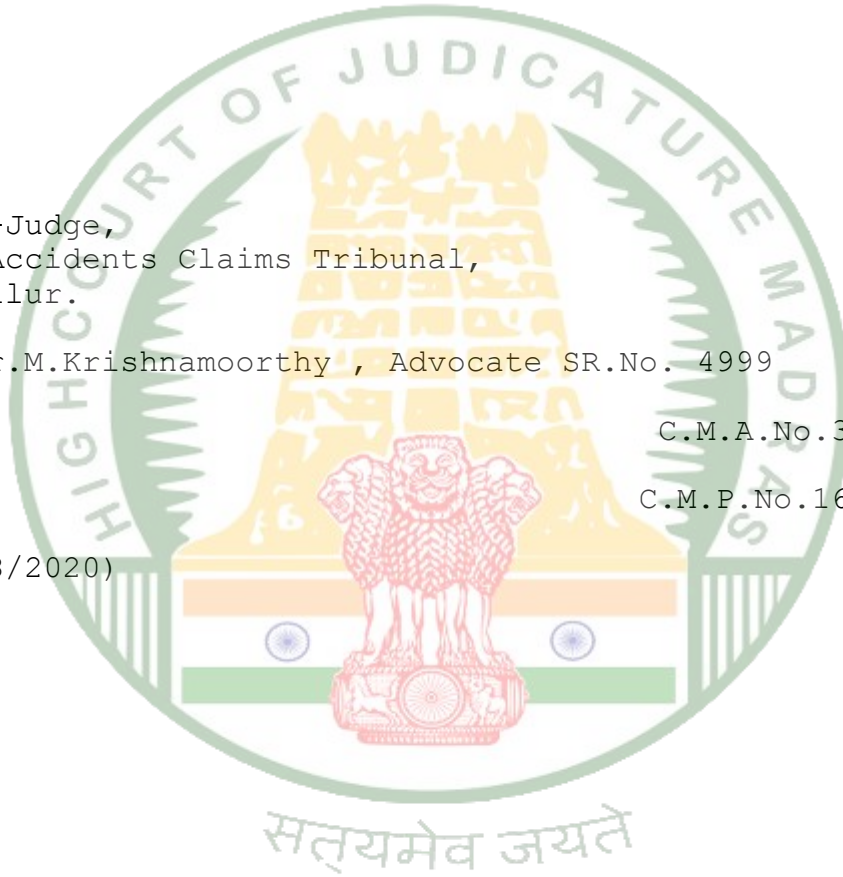
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To

1.The Sub-Judge,
Motor Accidents Claims Tribunal,
Tiruvallur.

+lcc to Mr.M.Krishnamoorthy , Advocate SR.No. 4999

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A.SK(21/08/2020)



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