

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.06.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2259 of 2008

and

M.P.No.1 of 2008

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

Vs

K.NagajothiRespondent/ Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgement and decree dated 25.08.2005 made in M.A.C.T.O.P.No.583 of 2001, on the file of Motor Accident Claims Tribunal, Fast Track Court No.4, Coimbatore.

For Appellant : Mr.N.Anand

J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal, the appellant Transport Corporation has filed this Civil Miscellaneous Appeal.

2.The case in brief is as follows:

On 26.5.2001, at about 14.35 hours, the respondent was travelling in a bus bearing Regn.No.TN33 N 0940 belonging to the appellant transport Corporation in Tirupur to Dharapuram Road. When the bus was nearing Saminathan Veedu, Palavanipalayam, the driver of the bus drove it rashly and negligently and dashed against a lorry. Due to the said impact, the respondent sustained grievous injuries. Stating so, she filed a claim petition, claiming a compensation of Rs.5,00,000/-. The Tribunal considering the pleadings, oral and documentary evidence, held that accident occurred due to rash and negligent driving by the driver of the bus belonging to the appellant and directed the appellant-Transport Corporation to pay a compensation of Rs.73,294/- with interest at 7.5%pa from the date of petition,

to the respondent. Aggrieved over the same, the appellant has come out with the present appeal.

3.The learned counsel appearing for the appellant has disputed only the quantum of compensation awarded by the Tribunal. According to him, the compensation awarded by the Tribunal is excessive and exorbitant and hence, the same has to be reduced to some extent.

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

5.Though this appeal was admitted way back in the year 2008, the appellant has not taken proper steps to serve notice on the respondent even at this length of time. However, considering the passage of time, this Court is inclined to proceed with this appeal on merits.

6.There is no dispute with regard to the findings of the Tribunal on negligence and the liability of the appellant Transport Corporation to pay compensation.

7.With regard to the quantum of compensation, P.W.1/respondent/claimant has stated that she was working as agricultural coolie and was earning a sum of Rs.4,000/- per month, but she did not file any document to prove the same. In the absence of any material, the Tribunal has fixed a sum of Rs.2,100/- per month as notional income of the respondent. P.W.3-Doctor has deposed that he assessed the disability of the claimant at 23.66%. Ex.P.3 is the wound certificate and Ex.P4 is the disability certificate. However, the Tribunal, considering the fact that PW3 was not the doctor, who gave treatment to the respondent at the time of accident, has reduced the disability to 16% and awarded compensation under the head "loss of income" at Rs.68,544/- ($2100 \times 12 \times 17 \times 16\%$), which is just and reasonable and hence, the same warrants no interference. Further, the Tribunal has awarded Rs.250/-, Rs.500/- and Rs.4,000/- towards transport, extra nourishment and pain and suffering respectively, which, in the opinion of this Court, are fair and just and the same cannot be treated as exorbitant at any stretch of imagination and hence, the same need not be interfered.

8.Thus, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant-Transport Corporation is directed to deposit the entire amount awarded by the Tribunal along with interest and costs, less the amount already deposited, if any within a period of four weeks from the date of receipt of copy of this

judgement. On such deposit, the respondent is permitted to withdraw the same, less the amount if any already withdrawn, on filing proper application.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gbi/rk

To

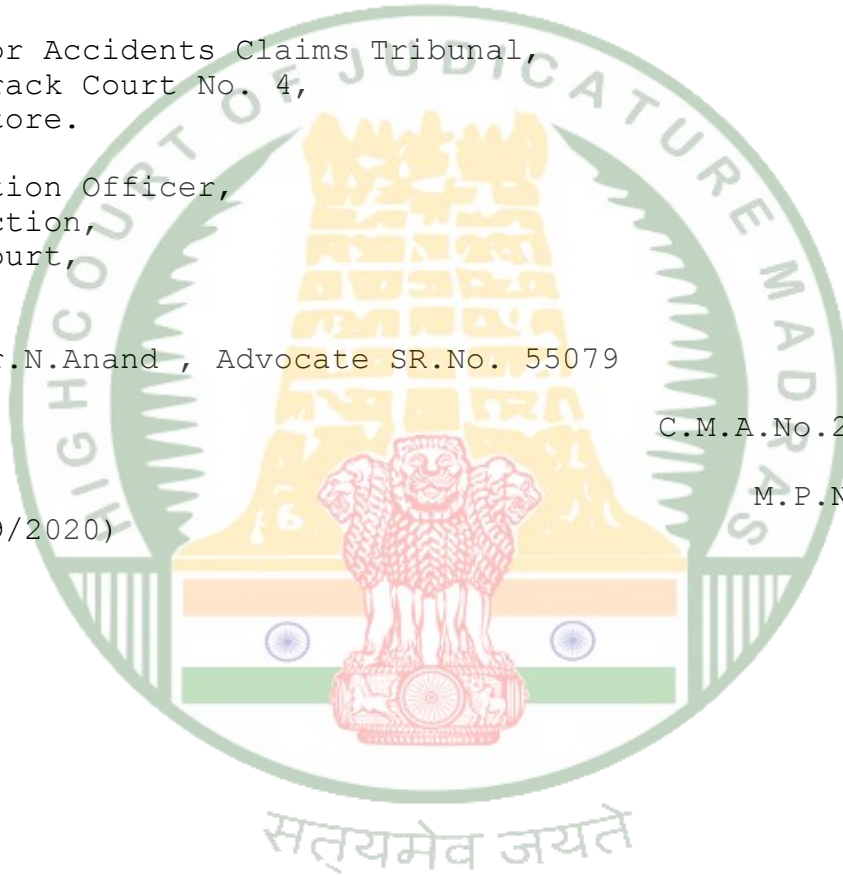
1.The Motor Accidents Claims Tribunal,
Fast Track Court No. 4,
Coimbatore.

2.The Section Officer,
V.R.Section,
High Court,
Madras.

+1cc to Mr.N.Anand , Advocate SR.No. 55079

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A.SK(10/09/2020)



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