

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3983 of 2005
and C.M.P.No.19600 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Madurai. ... Appellant/1st Respondent

Vs

1.Asokan ...1st Respondent/Petitioner

2.R.Sekar

3.The National Insurance Company Ltd.,
Namakkal. ... Respondents 2 & 3/Respondents & 3

Appeal filed under Section 173 of the Motor Vehicles Act
against the judgment and decree dated 20.12.2002 made in MCOP
No.433 of 1996 on the file of the Motor Accidents Claims
Tribunal (Additional District Judge, FTC-V), Tirupur.

For Appellant : Mr.D.Jagadeeswaran

For Respondents : Mr.MA.P.Thangavel for R1

JUDGMENT

This appeal has been filed by the Transport Corporation
against the judgment and decree dated 20.12.2002 made in MCOP
No.433 of 1996 on the file of the Motor Accidents Claims
Tribunal (Additional District Judge, FTC-V), Tirupur.

2.The facts of the case would run thus:

On the fateful day, ie., on 24.02.1996, the first
respondent herein was travelling in the bus bearing Reg.No.TN-
58-B-0035 belonging to the appellant Transport Corporation. At
about 2.45 p.m., when the bus was nearing C.T.C.Canteen,
Karanampettai, the lorry bearing Reg.No.TN-28-B-0889 came from
the opposite direction and both the vehicles collided. Due to

the said impact, fire broke out and the first respondent sustained burn and multiple injuries. The first respondent filed a claim petition before the Tribunal. The Tribunal awarded a compensation of Rs.3,94,565/- with interest at 9% per annum from the date of petition.

3.Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant 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.The learned counsel for the first respondent/claimant has submitted that the Tribunal had considered all the materials and evidence available on record and awarded the compensation which is just, fair and reasonable. Hence the order of the Tribunal is in accordance with law and the same has to be confirmed.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.The Tribunal has taken note of the evidence of P.W.1-Asokan, the claimant, that it is not correct to state that even though the vehicle belonging to the appellant herein came half-a-way through, the lorry driver did not stop the vehicle and caused the accident. Further there was no document filed on behalf of the appellant before the Tribunal, in this connection and no oral witnesses were examined. Taking note of all the relevant facts and circumstances of the case, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus, which this Court is not inclined to interfere.

8.With regard to quantum, the Tribunal has examined P.W.5-Doctor, who assessed the disability of the claimant as 20%. Applying the correct multiplier of 16 relating to the age of the claimant, the Tribunal has correctly assessed the loss of income at Rs.1,80,480/-. Since the percentage of burn injuries was 18%, the Tribunal awarded a sum of Rs.2,00,000/- as per the dictum laid down by the Hon'ble Supreme Court. The amounts awarded towards other heads are also very reasonable.

9.In view of the above stated circumstances, the Civil Miscellaneous Appeal is dismissed, confirming the impugned judgment and decree passed by the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

10.The appellant Transport Corporation is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

KM

To

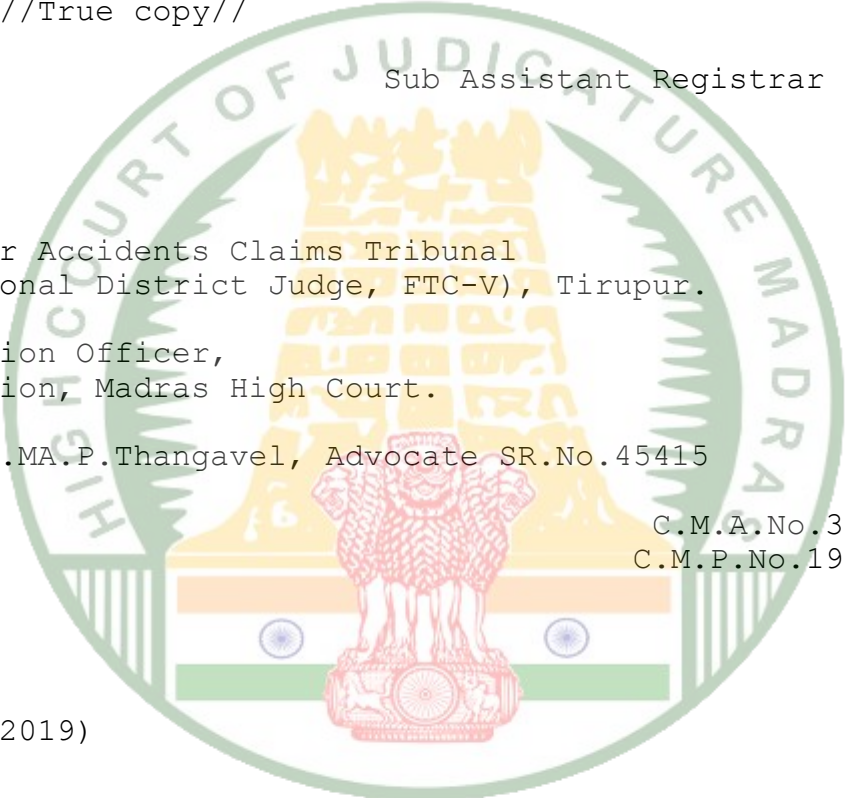
1.The Motor Accidents Claims Tribunal
(Additional District Judge, FTC-V), Tirupur.

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

+1cc to Mr.MA.P.Thangavel, Advocate SR.No.45415

C.M.A.No.3983 of 2005
C.M.P.No.19600 of 2005

NRL (CO)
GMY (19/11/2019)

The seal of the Madras High Court is a circular emblem. It features a central golden temple gopuram (tower) with a red lion standing in front of it. The lion is facing forward and is flanked by two smaller lions. The entire emblem is set against a background of horizontal stripes in green, white, and orange. The words "HIS COURT OF JUDICATURE MADRAS" are inscribed around the perimeter of the seal. Below the seal, the motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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