

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2670 of 2008 and  
M.P.No.1 of 2008

The Managing Director,  
Tamil Nadu State Transport Corporation,  
Villupuram.

.... Appellant

Vs.

Jaquelin

.... Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 29.01.2008 made in MCOP No.40 of 2006 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge at Tindivanam.

For Appellant: Mr.S.V.Vijayakumar

J U D G M E N T

This appeal arises out of the judgement and decree dated 29.01.2008 passed by the Motor Accident Claims Tribunal, Principal Sub Court, Tindivanam, in MCOP No.40 of 2006.

2. The respondent/claimant, who was a pillion rider of the motor cycle bearing Regn.No.PY02 0471, met with an accident on 07.12.2005 about 1.45 p.m., on East Coast Road at Pammayarapalayam, on account of the rash and negligent driving of the driver of the bus bearing Regn.No.TN32 N 2181 and suffered grievous injuries and fractures in the right hand and fore-head. Hence, she filed a claim petition claiming a compensation of Rs.3,00,000/-.

3. The Tribunal, based on the witness account and the documents adduced, has awarded a total compensation of Rs.36,800/- under the following heads:-

|                                             |   |             |
|---------------------------------------------|---|-------------|
| Medial expenses                             | - | Rs. 1,800/- |
| Extra nourishment                           | - | Rs. 2,000/- |
| Loss of earning during the treatment period | - | Rs. 3,000/- |
| Permanent disability                        | - | Rs.12,000/- |
| Grievous hurt                               | - | Rs.10,000/- |
| Pain and suffering                          | - | Rs. 3,000/- |
| Loss of Amenities                           | - | Rs. 5,000/- |
|                                             |   | -----       |
| Total                                       | - | Rs.36,800/- |

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Aggrieved over the same, the transport Corporation has filed this appeal.

4. The learned counsel for the appellant Transport Corporation has not disputed the liability of the Transport Corporation to pay compensation. However, he submitted that the compensation so awarded by the Tribunal is excessive, exorbitant and disproportionate to the injuries sustained by the respondent/claimant.

5. This Court considered the submissions made by the learned counsel for the appellant Transport Corporation and perused the materials available on record.

6. Though the appeal was admitted way back in the year 2008, the appellant Transport Corporation has not taken proper steps to serve papers on the respondent. However, considering the fact that the appeal is of the year 2008, this Court is inclined to proceed with the appeal on merits.

7. There is no dispute with regard to the liability of the appellant Transport Corporation to pay compensation to the respondent/claimant.

8. As regards the quantum of compensation, the respondent/claimant herself examined as P.W.1, according to whom, she was aged about 28 years and was earning a sum of Rs.5,000/- by selling provisions, vegetables etc.; she sustained grievous injuries and fracture in right hand. P.W.3/doctor, who examined the respondent/claimant, has deposed that she sustained permanent disability at 12%. Ex.P7 is the disability disability. Considering those oral and documentary evidence, the Tribunal has awarded the total compensation of Rs.36,800/- under the heads as stated above, which need not be interfered with by this Court, as the same are fair, just and reasonable and also based on conventional methodologies.

9. In such view of the matter, confirming the award passed by the Tribunal, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Transport Corporation shall deposit the entire compensation amount, along with interests and costs, 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 same to the Savings Bank Account of the claimant / injured / respondent herein, within one week thereafter, through RTGS. Consequently, connected MP is closed.

Sd/-  
Assistant Registrar(CS)

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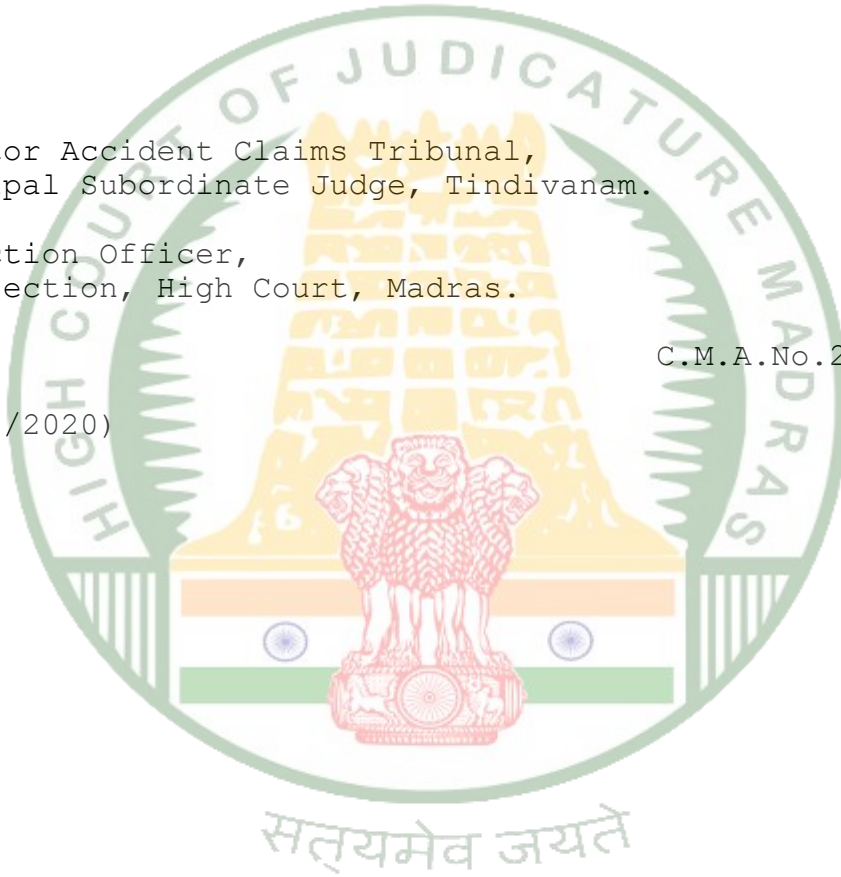
Sub Assistant Registrar

kv/srk  
To

1. The Motor Accident Claims Tribunal,  
Principal Subordinate Judge, Tindivanam.
2. The Section Officer,  
V.R. Section, High Court, Madras.

C.M.A.No.2670 of 2008

vsn II(CO)  
A.SK(03/01/2020)



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