

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.07.2019
CORAM:
THE HON'BLE Mr. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal No.1241 of 2009
and M.P.No.1 of 2009

The Managing Director,
Tamilnadu State Transport
Corporation, Ltd.,
Coimbatore.

... Appellant/2nd Respondent

...vs...

1. Chitra ...1st respondent/claimant
2. S.Nagendiran ...2nd Respondent/1st respondent
(R2-given up)

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 08.01.2007 made in M.C.O.P.No.225 of 2001 on the file of the Motor Accident Claims Tribunal, (Sub Court), Udumalpet.

For Appellant : Mr.V.Ramesh
R1 : Batta due-Reg-R1 (in MP)

For Respondents : R2-Given up

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Transport Corporation, challenging the findings of the Tribunal, on negligence as well as the quantum of compensation awarded by the Claims Tribunal.

2. The case in brief is as follows:

On 08.07.2004 at about 6.30 am, when the driver of Maruti Omni Van bearing Regn.No.TN59 B1575 belonging to the first respondent/claimant was driving the said Van on Udumalaipet to Palani Road, the bus bearing Regn.No.TN38 N0791 belonging to the appellant transport corporation came in a rash and negligent manner and dashed against the Van. Due to the said impact, the driver of the Van died on the spot and Maruti Omni Van was fully damaged. Stating that the accident had occurred due to the rash and negligent act on the part of the driver of the bus, the first respondent/owner of the Van filed a claim petition claiming a compensation of Rs.1,00,000/- towards damage caused to the said Van. On consideration of the materials and evidence, the Tribunal has awarded a total compensation of Rs.60,000/-

with interest at 7.5%pa from the date of petition. Feeling aggrieved, the appellant Transport Corporation has come up with this appeal.

3.The learned counsel for the appellant transport corporation submitted that the accident had occurred, due to the rash and negligent driving on the part of the driver of the van, whereas the Tribunal erred in rendering a finding that the accident was caused due to the negligent act on the part of the driver of the bus. The learned counsel further submitted that without any documentary evidence, the Tribunal awarded a huge sum of Rs.60,000/- towards damage caused to the Van and the same has to be reduced substantially.

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

5.Though this appeal was admitted way back in the year 2009, the appellant has not taken proper steps to serve papers on the first respondent/claimant, even at this length of time. However, considering the passage of time, this appeal is taken up for final disposal on merits.

6.As regards the negligence, it was put forth on the side of the appellant Transport Corporation that the accident had occurred due to the rash and negligent driving of the driver of the Van. However, no evidence either in oral or documentary was adduced to defend their contention. Hence, the Tribunal relying on Ex.P1-First Information Report, Ex.P2-charge sheet, Ex.P3-Motor Vehicle Inspector's report and Ex.P4-photo relating to accident, has rightly arrived at the conclusion the accident had happened due to the negligent act on the part of the driver of the bus and accordingly, fixed the liability on the appellant transport Corporation, which finding this Court is not inclined to interfere.

7.As far as the quantum of compensation, there was no dispute with regard to the damage caused to the Van, in the accident. P.W1/first respondent/claimant has deposed that she was earning Rs.10,000/- per month by renting out the said Van. However, no RC was produced and the person, who took repairing work, was not examined. Hence, the Tribunal has taken note of the evidence of P.W1/claimant coupled with Ex.P3 motor vehicle inspector's report and Ex.P5-bill and has awarded a total compensation of Rs.60,000/- towards damage caused to the Van, which is just and reasonable, in the facts and circumstances of the case and hence, the same need not be interfered with by this Court.

8.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected MP is closed. The appellant / Transport Corporation shall deposit the entire compensation amount, along with interest 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 amount in the deposit to the Savings Bank Account of the claimant / 1st respondent through RTGS, within one week thereafter.

-s/d-

Assistant Registrar

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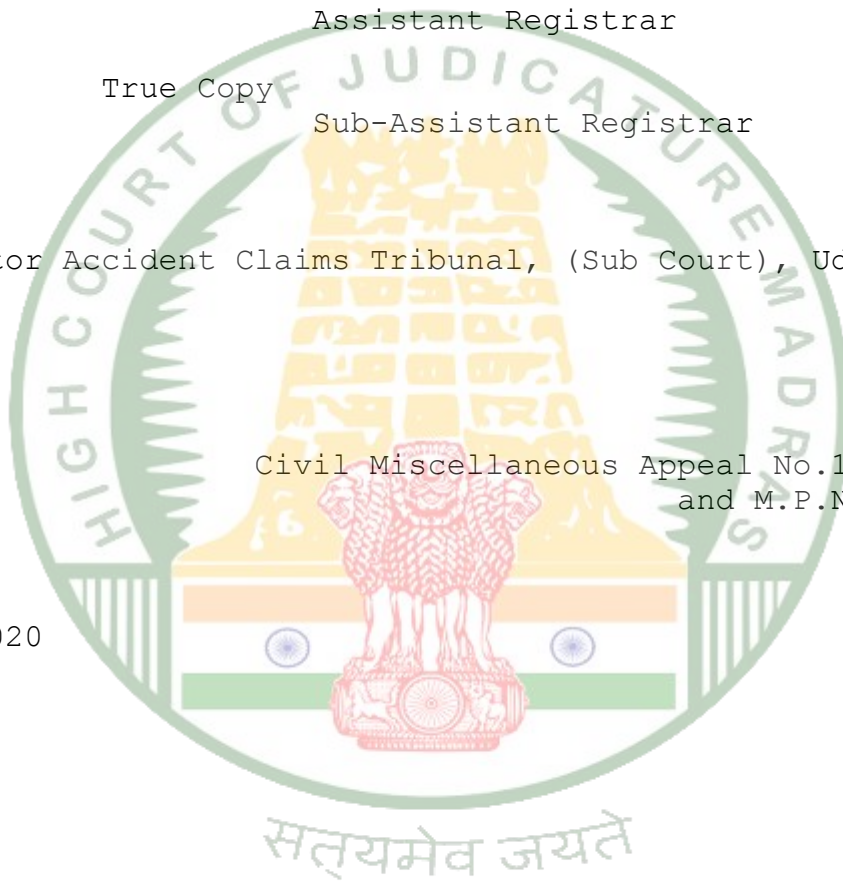
ssd/rk

To

1. The Motor Accident Claims Tribunal, (Sub Court), Udumalpet.

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