

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3373 of 2008
and M.P.No.1 of 2008

The Managing Director
Tamil Nadu State Transport Corporation Ltd.
Villupuram Division II,
Vellore-9.

.... Appellant / Respondent

Vs

Sunandha

... Respondent / Petitioner

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 22.01.2008 made in MCOP No.71 of 2005 on the file of the Motor Accidents Claims Tribunal and Additional District and Sessions Court, FTC, Tirupattur.

For Appellant : Mr.S.V.Vasanthakumar

For Respondent : No appearance

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.86,500/- towards compensation to the respondent, due to the injuries suffered by her in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 24.05.2003, the respondent / claimant travelled in the bus belonging to the appellant Transport Corporation, bearing Reg.No.TN-23-N-1203 towards Tirupattur. At about 05.15 p.m., when the bus was proceeding in the Yelagiri Hill towards Tirupattur on the Hill Road at 8th Bend, the driver of the bus drove it in a rash and negligent manner, at uncontrollable speed and hit against the road side tumulus. Due to the said impact, the claimant and other passengers in the bus sustained injuries. The claimant sustained multiple injuries all over the body and her right fore arm got fractured. The claimant filed a claim petition before the Tribunal. On consideration of the materials and evidence

available on record, the Tribunal awarded a total compensation of Rs.86,500/- with interest at the rate of 7.5% 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 appellant's bus driver was rash and negligent and was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.There is no representation on behalf of the respondent, even though the name of the respondent is printed in the cause list.

6.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

7.Considering the materials and evidence available on record, the Tribunal came to know that when the bus was proceeding in the Yelagiri Hill towards Tirupattur on the Hill Road at 8th Bend, the driver of the bus drove it in a rash and negligent manner, at uncontrollable speed and hit against the road side tumulus and due to the said impact, the claimant and other passengers in the bus sustained injuries. Hence, the Tribunal fixed the negligence on the part of the driver of the bus belonging to the appellant Transport Corporation. This Court is not inclined to interfere with the said finding rendered by the Tribunal.

8.In respect of the quantum of compensation, the Tribunal has awarded a sum of Rs.50,000/- towards grievous injuries, taking note of Ex.P2-Wound Certificate. The Tribunal has also awarded a sum of Rs.35,000/- towards 35% disability, at the rate of Rs.1,000/- per percentage of disability and Rs.1,500/- towards car rent, in respect of transport to hospital, relying upon Ex.P5-Car Rent Receipt. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above heads and hence the same need not be interfered with by this Court.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Transport Corporation is directed to deposit the award amount with interest, as ordered by the Tribunal, 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 being made, the

respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

KM

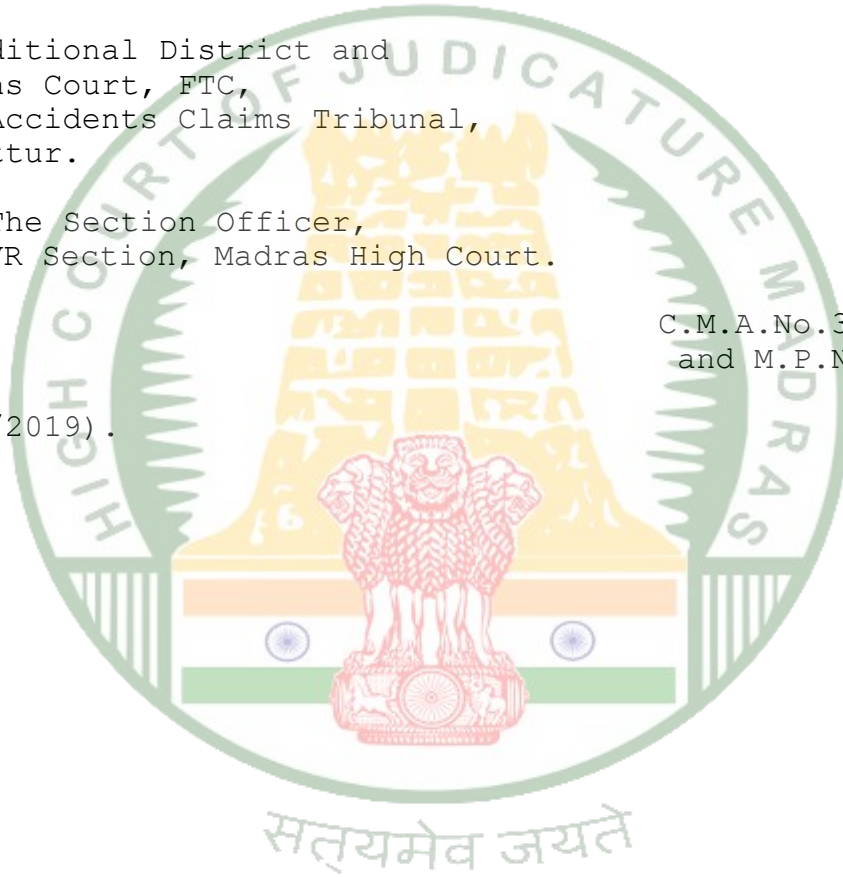
To

1. The Additional District and Sessions Court, FTC, Motor Accidents Claims Tribunal, Tirupattur.

Copy to: The Section Officer,
VR Section, Madras High Court.

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and M.P.No.1 of 2008

EV(CO)
SSM(19/08/2019).



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