

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1447 of 2009
& M.P.No.1 of 2009

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

.. Appellant

Vs.

Inaiyathulla

.. Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 19.6.2007 made in MCOP.No.581 of 2004 on the file of Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court No.V, Chengalpattu at Tiruvallur.

For Appellant : Mr. V.Ramesh

J U D G M E N T

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

2. The case in brief is as follows:

On the fateful day, i.e., on 02.04.2004, at 11.20am, the respondent drove the Car bearing registration No.TN02 Q 8670 and stopped it, in the signal, opposite to Koyambedu bus stand. At that time, the appellant transport corporation bus bearing registration No.TN21 N 0501 came in a rash and negligent manner and hit the Car from behind. As a result of the same, the respondent sustained fracture in vertebra, besides receiving grievous injuries in all over the body. Stating so, he filed a claim petition claiming a sum of Rs.2,50,000/- as compensation. The Tribunal, after examining the oral and documentary evidence adduced by the parties, awarded a total compensation of Rs.1,00,000/- with interest at the rate of 7.5% per annum from

the date of petition. Aggrieved over the same, the appellant -Transport Corporation is before this Court with the present appeal.

3. The learned counsel for the appellant - Transport Corporation submitted that the quantum of compensation awarded by the Tribunal is excessive, exorbitant and also disproportionate to the injuries sustained by the respondent and hence, the same needs substantial reduction.

4. Heard the learned Counsel for the appellant and perused the materials available on record carefully and meticulously.

5. It is seen that the respondent is not ready in notice. Even though a conditional order of Stay was granted way back in the year 2009, the appellant- Transport Corporation has not taken proper steps to serve papers to the respondent. However, having regard to the efflux of time, this Court is inclined to decide this appeal on merits.

6. The learned counsel for the appellant Transport Corporation has not disputed the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus and hence, the said finding of the Tribunal need not be interfered with by this Court.

7. As regards the quantum of compensation, P.W.1/respondent/ claimant in his evidence, deposed that he was aged 26 years and was earning a sum of Rs.5,000/- per month; in the accident, he sustained fracture and grievous injuries. Ex.P4 is wound certificate, as per which, he was treated as inpatient for fracture in lumber vertebra. Ex.P5 is the disability certificate issued by P.W.2 Doctor assessing the disability at 40%, due to which, the claimant finds discomfort in sitting, bending and doing the work as before. The Tribunal, after considering the materials and evidence let-in by the respondent/claimant, has determined Rs.35,000/- towards loss of earning and future medical expenses, Rs.30,000/- towards pain and suffering, Rs.25,000/- towards injuries, Rs.5,000/- towards treatment and Rs.5,000/- towards other expenses and thus, awarded Rs.1,00,000/- as total compensation. This Court is of the view that the compensation so awarded by the Tribunal under the above heads, are just and very reasonable, having regard to the nature of the injuries sustained by the respondent/claimant and in the facts and circumstances of the case and hence, the same need not be interfered.

8. In such view of the matter, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant-Transport Corporation is directed to deposit the entire award amount with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit, the Tribunal shall transfer the same to the savings bank account of the respondent/claimant through RTGS, within a period of one week thereafter. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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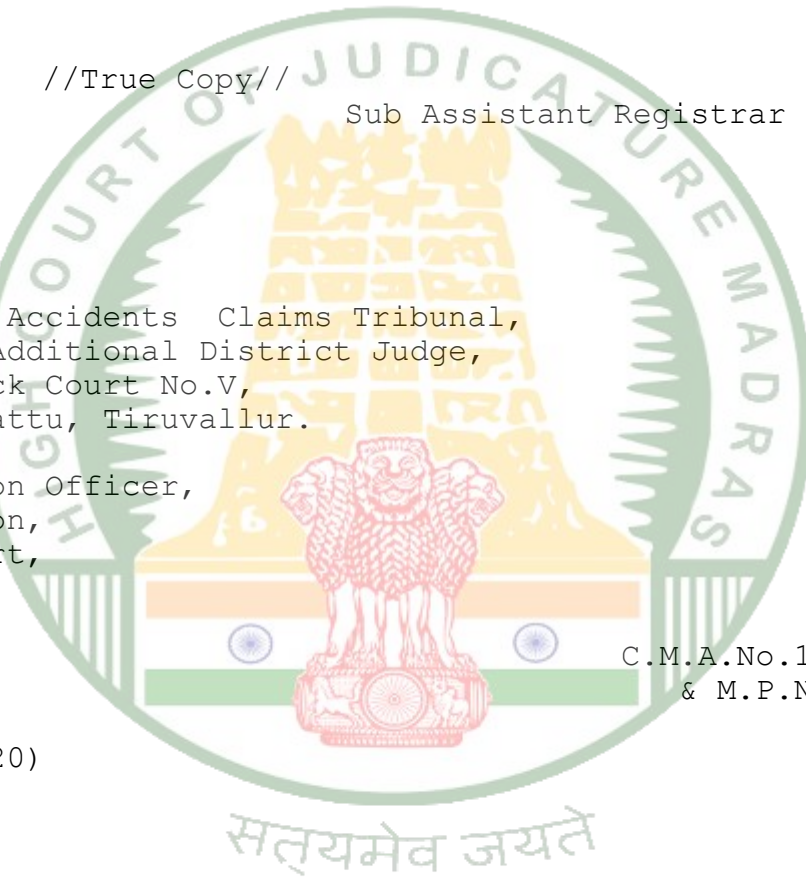
To

1.The Motor Accidents Claims Tribunal,
Learned Additional District Judge,
Fast Track Court No.V,
Chengalpattu, Tiruvallur.

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

C.M.A.No.1447 of 2009
& M.P.No.1 of 2009

RGN(CO)
CB(16/09/2020)



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