

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.3649 to 3651 of 2008
and
M.P.Nos.1, 1 and 1 of 2008

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Villupuram Division II)
rep.by its Managing Director,
Kancheepuram.

... Appellant in all CMAs

Vs.

Sushila Kumari

.. Respondent in CMA.No.3649 of 2008

S.Vimal Kumar

.. Respondent in CMA.No.3650 of 2008

T.V.Leela Vimal

.. Respondent in CMA.No.3651 of 2008

Common Prayer: These Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 29.02.2008 made in MCOP.Nos.565 to 567 of 2003, on the file of the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Mr.S.V.Vasanthakumar
(In all CMAs)

For Respondent : Mr.S.Gangaram Prasad
(In all CMAs)

COMMON JUDGMENT

These Civil Miscellaneous Appeals arise out of the common judgment dated 29.02.2008 in M.C.O.P.Nos.565, 566 and 567 of 2003, respectively, on the file of the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai.

2.The case in brief is as follows:

On 27.07.2002 at about 09.30 hours, the respondent in these appeals (3 persons) and others were travelling in the car bearing Reg. No.TN-09-L-8800 on the East Coast Road from Chennai

to Mahabalipuram. When the car reached near Kovalam Junction, the bus bearing Reg.No.TN-45-N-0827 belonging to the appellant Transport Corporation, came from a side road from Kovalam in a rash and negligent manner and all of a sudden, took a right turn and entered the main East Coast Road and hit against the car. Due to the impact, the respondent in these appeals / claimants and others, who were travelling in the car, sustained grievous injuries. The claimants herein have filed claim petitions before the Tribunal separately. Considering the materials and evidence available on record, the Tribunal has awarded sums of Rs.1,30,206/-, Rs.2,49,000/- and Rs.1,31,480/- respectively, with interest at the rate of 12% per annum from the respective dates of petitions, as total compensation amounts.

3.Challenging the same, the appellant has come up with these appeals.

4.The learned counsel for the appellant Transport Corporation 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 amounts awarded by the Tribunal are exorbitant and excessive.

5.The learned counsel for the respondent in these appeals / claimants has submitted that the Tribunal has correctly considered the materials and evidence available on record and has passed the impugned judgment, which does not require any interference in the hands of this Court.

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

7.It has been put forth on the side of the Transport Corporation before the Tribunal that P.W.1, respondent in CMA.No.3650 of 2008, was driving the car at 60 Kms. speed as admitted by him in his cross-examination and hence P.W.1 was responsible for the accident. It was also submitted that there was contributory negligence on the part of the driver of the car and Ex.P1-First Information Report cannot be believed as the person who gave the First Information Report, was not the eye-witness to the occurrence. But the fact remained that the version in Ex.P1 is in tune with the version of P.Ws.1, 2 and 3. The Tribunal has observed that even though the bus driver was acquitted by the Criminal Court, that does not absolve the Transport Corporation from its liability to pay compensation to the victims, as the acquittal has no relevance to MCOP in evidence and the rashness and negligence have to be proved by letting in evidence in the MCOP proceedings. Taking note of the materials and evidence on record in a proper perspective, 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 belonging to the appellant Transport Corporation and accordingly fixed the liability on the appellant Transport Corporation, which factual finding this Court is not inclined to interfere.

8. With regard to the quantum of compensation awarded by the Tribunal in all these cases, the Tribunal has relied upon the exhibits, evidence of witnesses, treatment records, percentage of disability assessed by the Doctor and all other aspects in a proper perspective and has awarded the above compensation amounts under various heads to the respondent in these appeals / claimants. Further, this Court is of the considered view that the compensation amounts awarded are reasonable and justifiable and hence the same are confirmed.

9. At this juncture, the learned counsel for the appellant Transport Corporation has submitted that the interest awarded by the Tribunal at the rate of 12% is excessive and exorbitant and hence, the same has to be reduced.

10. This Court finds some force in the said contention made by the learned counsel for the appellant Transport Corporation. Considering the fact that the accident took place on 27.07.2002; the claim petitions were disposed of by the Tribunal on 29.02.2008; the appellant has filed these appeals during the year 2008 and the same are being disposed of only now i.e., 2019, the appellant cannot be saddled with interest at the rate of 12%. Hence, it would be appropriate to reduce the interest rate fixed by the Tribunal to 7.5% per annum. Accordingly, the interest rate fixed by the Tribunal at 12% per annum from the respective dates of petitions, stands modified to 7.5% per annum from the respective dates of petitions.

11. In the result, these Civil Miscellaneous Appeals are partly allowed. No costs. The appellant Transport Corporation is directed to deposit the compensation amounts as ordered by the Tribunal, but with interest at 7.5% per annum from the respective dates of petitions and costs, less the amounts 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 respondent in these appeals / claimants are permitted to withdraw the same on making proper application before the Tribunal. Consequently, connected Civil Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar

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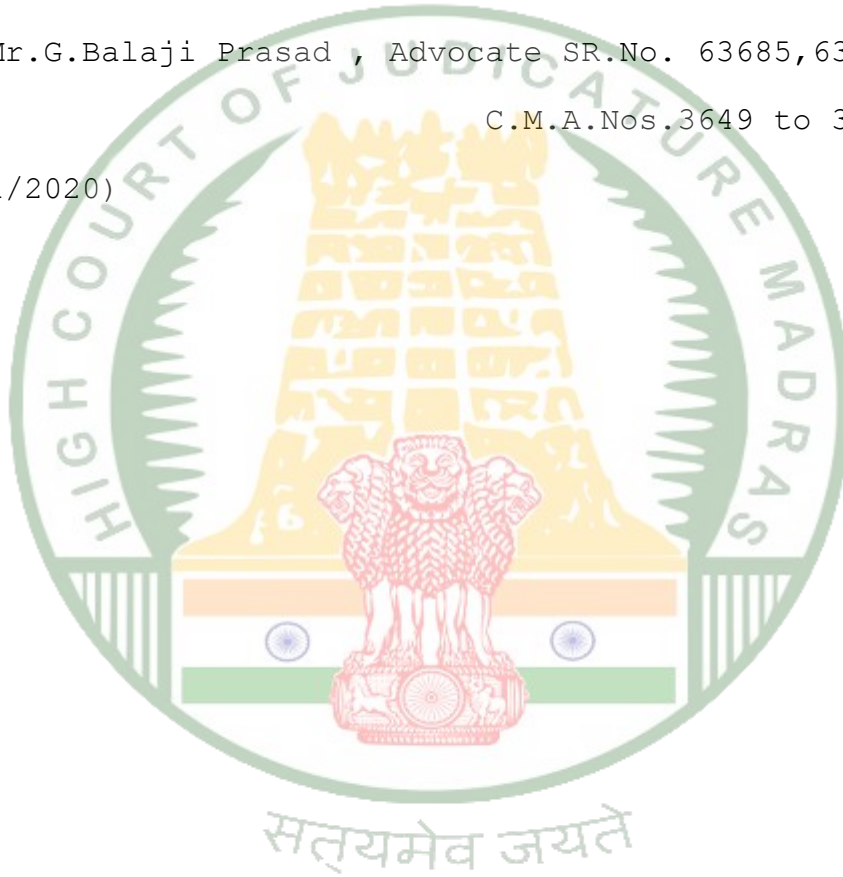
1.The III Judge,
Motor Accident Claims Tribunal,
Court of Small Causes,
Chennai.

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

+3ccs to Mr.G.Balaji Prasad , Advocate SR.No. 63685,63656,63687

C.M.A.Nos.3649 to 3651 of 2008

ssd co
A.SK(24/11/2020)



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