

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3843 of 2008

and

M.P.No.1 of 2008

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Division II, Sathuvachari,
Vellore

... Appellant/Respondent

Vs.

Santhiya (Minor)
rep. by father and next friend
Mr.Damodharan

... Respondent /Claimant

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.12.2007 made in M.C.O.P.No.1953 of 2003 on the file of the Motor Accident Claims Tribunal, Additional District Court, Fast Track Court No.3, Chennai.

For Appellant : Mr.S.V.Vasanth Kumar

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/Transport Corporation against the award of a sum of Rs.96,400/- to the respondent/claimant for the injuries sustained by her in a motor vehicle accident.

2.The facts of the case are that on 05.06.2002 at about 4.10 p.m., the minor respondent/claimant travelled as a pillion rider in the motorcycle bearing Reg.No.TN-21-D-8422 from Kanchipuram towards Erivakkam Village, on the G.W.T.Road. When the two-wheeler reached near Erivakkam Kuttakkarai, the appellant/Transport Corporation bus bearing Regn.No.TN 23 N 1400 which was proceeding from Madras to Vellore, driven by its driver in a rash and negligent manner at high speed, dashed against the two-wheeler. Due to the said impact, the minor respondent/claimant sustained grievous injuries, for which, she

filed a claim petition claiming a sum of Rs.2,00,000/- as compensation.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident had occurred due to the rash and negligent driving of the driver of the bus and directed the appellant/Transport Corporation to pay a sum of Rs.96,400/- as compensation to the minor respondent/claimant. Aggrieved over the same, the appellant /Transport Corporation has come out with the present appeal.

4.The learned counsel appearing for the appellant/Transport Corporation has not disputed the liability of the Transport Corporation to pay compensation to the minor respondent/claimant. However, he submitted that the compensation of Rs.96,400/- awarded by the Tribunal is excessive and exorbitant for the injuries sustained by the minor respondent/claimant.

5.Even though this appeal was admitted way back in the year 2008, the appellant has not taken proper steps to serve papers to the respondent, even at this length of time. However, due to efflux of time, this appeal is taken up for final disposal on merits.

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

7.Since the learned counsel for the appellant has not disputed the manner in which the accident took place, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus, does not require any interference by this Court.

8.With regard to the quantum of compensation, the Tribunal has awarded a sum of Rs.60,000/- towards 30% disability assessed by P.W.3-Doctor at the rate of Rs.2,000/- per percentage of disability. The Tribunal has also awarded a sum of Rs.1,000/- towards medical expenses, Rs.7,400/- towards transport to hospital under Ex.P5, Rs.3,000/- towards extra nourishment, Rs.15,000/- towards pain and suffering and Rs.10,000/- towards loss of amenities. The amounts awarded by the Tribunal towards the above heads are very reasonable and hence, the same are confirmed.

9.In the result, the Civil Miscellaneous Appeal is dismissed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, as ordered by the Tribunal, less the amount, already deposited if any, within a period of four weeks from the date of receipt of

copy of this judgment. The respondent/claimant who was aged five years at the time of accident, would have attained majority by now. Hence, on such deposit being made, the respondent / claimant is permitted to withdraw the same on making proper application before the Tribunal. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

gbi

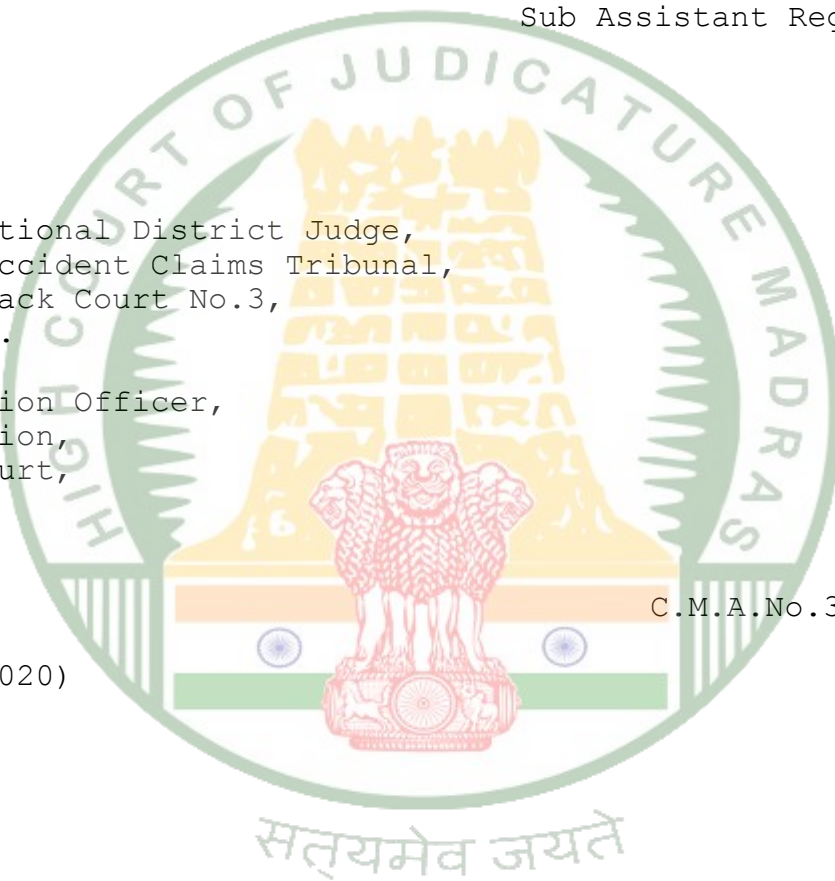
To

1.The Additional District Judge,
Motor Accident Claims Tribunal,
Fast Track Court No.3,
Chennai.

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

RSV (CO)
GN (16/10/2020)

C.M.A.No.3843 of 2008



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