

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.4003 of 2008

and

M.P.No.1 of 2008

The Managing Director,
Tamil Nadu State Transport Corporation Ltd,
Villupuram Division - I,
Vazhudareddy,
Villupuram. ... Appellant/ Respondent

Vs.

S.Kumar ... Respondent/ Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 14.12.2006 made in M.C.O.P.No.652 of 2004 on the file of the Motor Accident Claims Tribunal, Additional Sub-Court, Cuddalore.

For Appellant : Mr.N.Anand

J U D G M E N T

This appeal is preferred by the Transport Corporation against the award of a sum of Rs.1,36,600/- towards compensation to the respondent, who suffered injuries in a road accident.

2.The case in brief, is as follows:

On 30.11.2003 at about 5.15 pm., when the respondent was proceeding from West to East direction at the extreme left hand side of the Cuddalore to Vridhachalam Main Road, by walk, the appellant/Transport Corporation bus bearing Registration No.TN 32 N 1330 came from Vridhachalam at a high speed, in a rash and negligent manner and hit the respondent. Due to the said impact, the respondent sustained fractures and multiple injuries all over the body. He filed a claim petition before the Tribunal for compensation towards the injuries sustained. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,36,600/- with interest at the rate of 7.5% per annum from the date of petition, to the respondent/claimant.

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 accident had occurred only due to the negligence on the part of the respondent, whereas relying upon the evidence of P.W.1 and P.W.2, the Tribunal has erred in holding that the driver of the appellant corporation bus was responsible for the accident. It is also submitted that the compensation awarded by the Tribunal is excessive.

5.It is seen that batta with petition is due with regard to the respondent. Even though this appeal was admitted way back in the year 2008, the appellant transport corporation has not taken proper steps to serve papers on 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.R.W.1-Driver of the bus deposed before the Tribunal that the first respondent was crossing the road in a drunken state; that on seeing the same, he stopped the bus; that thereafter the first respondent had fallen down due to slippage on account of a stone present in the road. The Tribunal disbelieved the evidence of R.W.1, since due to this accident, four others have sustained injuries along with the injured herein, which is supported by the complaint given by one Soundararajan under Ex.P1/FIR. Considering all these, the Tribunal came to the conclusion that the accident had occurred only due to the negligent driving of driver of the bus. This Court is not inclined to interfere with the said factual finding arrived at by the Tribunal.

7.With regard to the quantum of compensation, the Tribunal has fixed the monthly income of the claimant at Rs.1,500/- even as a coolie, adopted the multiplier of 18 and arrived at the loss of income at Rs.1,29,600/- in respect of 40% disability fixed by the Doctor through Ex.P7-Disability Certificate. The Tribunal has also awarded a sum of Rs.1,000/- each towards transportation and extra nourishment and Rs.5,000/- towards loss of amenities. The Tribunal has rightly fixed the monthly income of the claimant, adopted the correct multiplier and arrived at the sum of Rs.1,29,600/- towards loss of income. The amounts awarded by the Tribunal towards the other heads are also very reasonable and hence, the same need not be interfered with by this Court.

8.In the result, the Civil Miscellaneous Appeal is dismissed. Consequently, the connected Miscellaneous Petition is closed. 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 a

copy of this judgment. On such deposit being made, the respondent is permitted to withdraw the same on making proper application.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gbi/srk
To

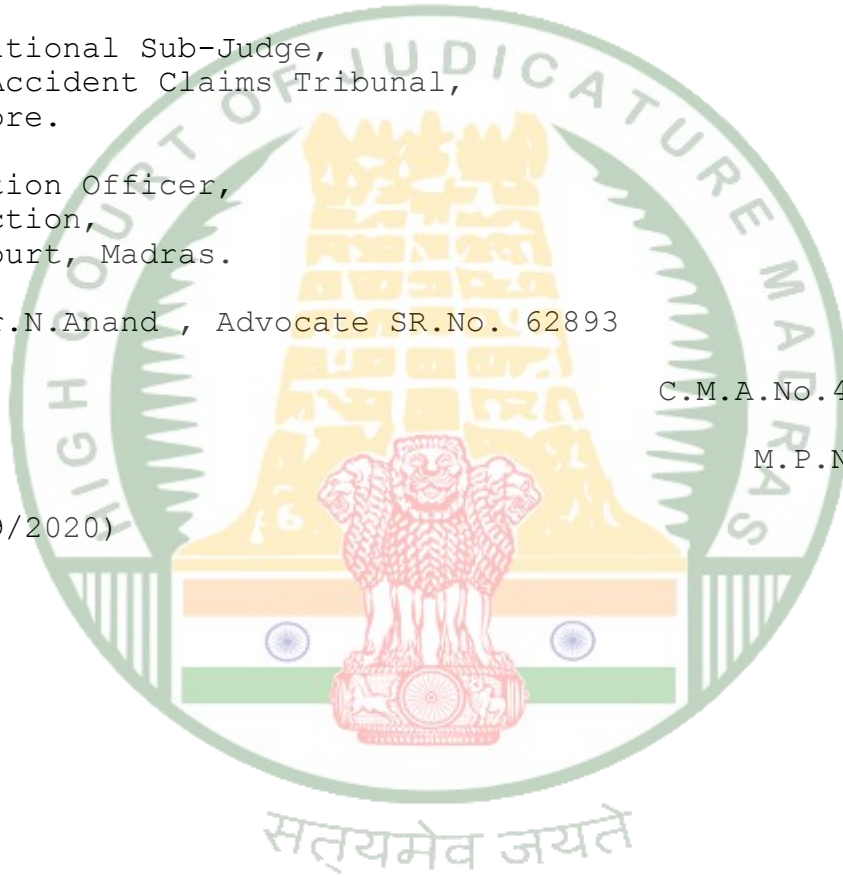
1.The Additional Sub-Judge,
Motor Accident Claims Tribunal,
Cuddalore.

2.The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.N.Anand , Advocate SR.No. 62893

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