

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2021 of 2010 and  
M.P.No.1 of 2010

The Managing Director  
The Tamil Nadu State Transport Corporation  
Villupuram : Appellant / Respondent

Vs

Ganesan : Respondent / Petitioner

Prayer:Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 23.07.2009 made in MCOP No.138 of 2008 on the file of the Motor Accidents Claims Tribunal/Fast Track court No.II, Tindivanam.

For Appellant : Mr.S.V.Vasantha Kumar

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the appellant / Transport Corporation against the award passed in MCOP No. 138 of 2008.

2.The case in brief is as follows:-

On 29.01.2006 at about 7.30 pm, when the claimant was riding a Tyre Cart along with paddy bags near Vallam Thondi river at Tindivanam, a Corporation bus bearing Reg.No. TN 32 N 1913 came from Chenna, in a rash and negligent manner, dashed against the Tyre Cart, as a result of which, the petitioner sustained severe injuries. Hence, the claimant/ respondent herein filed a Claim petition before the Tribunal. On consideration of the evidence available on record, the Tribunal has awarded a total compensation of Rs.13,000/- to the claimant.

3. Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4. Though the appeal was admitted way back in the year 2010, the appellant has not taken proper steps to serve notice

on the respondent side. However, considering the passage of time, this appeal is taken up for consideration on merits.

5. Heard the learned counsel for the appellant/Transport Corporation.

6. The learned counsel for the appellant submitted that the Tribunal has erred in coming to the conclusion that the driver of the Corporation bus was responsible for the accident. The Tribunal failed to note that the First Information Report was filed with a delay of 69 days. The learned counsel further submitted that the Tribunal has awarded a compensation, without any medical records.

7. An analysis of the award of the Tribunal would go to show that the Tribunal has taken into consideration Ex.P1 First Information Report and the evidence of PW 1. It is worthwhile to note that the evidence of PW 1 corroborates the contents of Ex.P.1 First Information Report. Also, there is no rebuttal evidence on the side of the appellant herein to prove the contentions raised by them. Hence, the Tribunal has come to the conclusion that the accident had happened only due to the rash and negligent driving of the driver of the Corporation bus. This Court finds no reasons to differ from the view taken by the Tribunal, since the Tribunal has rendered findings on negligence, based on evidence and materials available on record.

8. Regarding the quantum of compensation awarded by the Tribunal, it is crystal clear that the Tribunal has taken into consideration Ex.P2, Wound Certificate, Ex.P.3, Discharge Slip issued by the Government Hospital, Villupuram, wherein it was mentioned that the claimant sustained injuries on his head, face and multiple abrasions all over his body. Further, it is pertinent to note that the claimant took treatment at Government Hospital, Villupuram and not from any private hospitals. That apart, except Exs.P.2 and P3, no other medical records have been produced by the claimant before the Tribunal. From Ex.P.4 photographs, the cart and bulls, the scattered paddy bags were seen. Considering all the above, the Tribunal has awarded Rs.5,000/- towards injuries, Rs.2,000/- towards treatment and other expenses, Rs.4,000/- towards pain and suffering and Rs.2,000/- towards treatment to the injured bulls, totalling to Rs.13,000/-, which in the opinion of this Court is nothing but just.

9. In such view of the matter, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant/ Transport Corporation is directed to deposit the award amount as ordered by the Tribunal with interest and costs, after deducting the amount if any already deposited, within a period of four weeks

from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the deposited amount to the Savings Bank Account of the claimant / 1<sup>st</sup> respondent herein, through RTGS, within one week thereafter. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar

// True Copy//

Sub Assistant Registrar

vrn

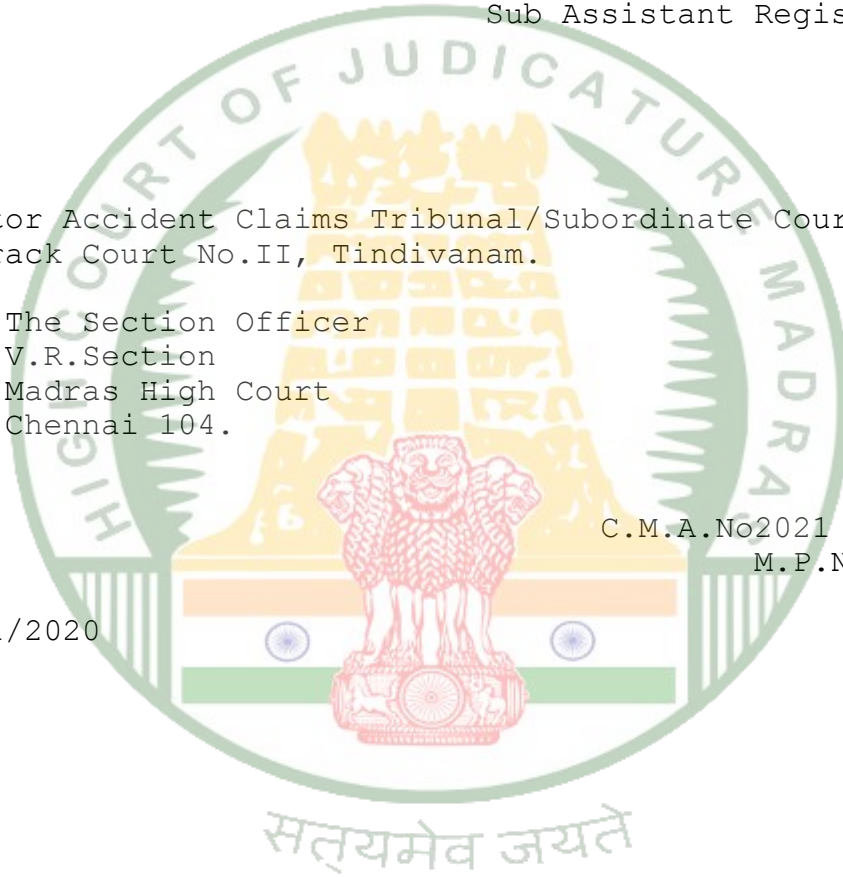
To

1. The Motor Accident Claims Tribunal/Subordinate Court  
Fast Track Court No.II, Tindivanam.

Copy to: The Section Officer  
V.R.Section  
Madras High Court  
Chennai 104.

C.M.A.No2021 of 2010 and  
M.P.No.1 of 2010

KJ(CO)  
CSR: 28/01/2020



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