

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1927 of 2009

and

M.P.No.1 of 2009

The Branch Manager,
Tamil Nadu State Transport Corporation Ltd.,
Periya Milaguparai,
Trichy-1.

... Appellant /Respondent

Vs.

Periyasamy

.. Respondent/Petitioners

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 07.08.2008 made in M.C.O.P.No.952 of 2005 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur.

For Appellant : Mr.S.V.Vasantha Kumar

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/Transport Corporation as against the award of a sum of Rs.65,000/- to the respondent/claimant for the injuries sustained by him in a motor vehicle accident.

2.The facts of the case, in brief is as follows:

On 03.09.2005 at about 11.30 a.m., the respondent was riding the TVS 50 two-wheeler bearing Registration No.TN-45-W-3821, in the road near Kalpadi Village, Perambalur District. At that time, the bus bearing Reg.No.TN-45-N-1146 belonging to the appellant Transport Corporation came in a rash and negligent manner and dashed against the respondent. Due to the said impact, the respondent sustained grievous injuries. He filed a claim petition claiming a compensation of Rs.2,00,000/- before the Tribunal. 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.65,000/- with interest at the rate of 7.5% per annum from the

date of petition, as total compensation to the respondent/claimant.

3. Aggrieved over the same, the appellant/Transport Corporation has come out with the present appeal.

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 awarded by the Tribunal is exorbitant and excessive.

5. Heard the learned counsel for the appellant and perused the records carefully and meticulously.

6. Though this appeal was admitted way back in the year 2009, the appellant has not taken proper steps to serve notice on the other side even at this length of time. However, due to efflux of time, this appeal is taken up for final disposal, on merits.

7. The respondent / claimant has been examined as P.W.1 before the Tribunal. He deposed before the Tribunal that the accident had occurred due to the rash and negligent driving of the driver of the bus. Ex.P1 is the First Information Report. The evidence of P.W.1 corroborates with Ex.P1. Further, the Tribunal has not let in any oral or documentary evidence to contradict the evidence of P.W.1. In these circumstances, the Tribunal came to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the bus, which finding this Court is not inclined to interfere.

8. As far as the quantum of compensation is concerned, the Tribunal has awarded a sum of Rs.10,000/- towards loss of income, Rs.35,000/- towards disability, Rs.10,000/- towards injuries and Rs.10,000/- towards pain and suffering. 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 amounts under various heads to the claimants. Further, this Court is of the considered view that the amounts awarded towards these heads are reasonable and justifiable and hence the same are confirmed.

9. In such view of the matter, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, 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 / claimant is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CO MDU)

//True Copy//

Sub Assistant Registrar

gbi

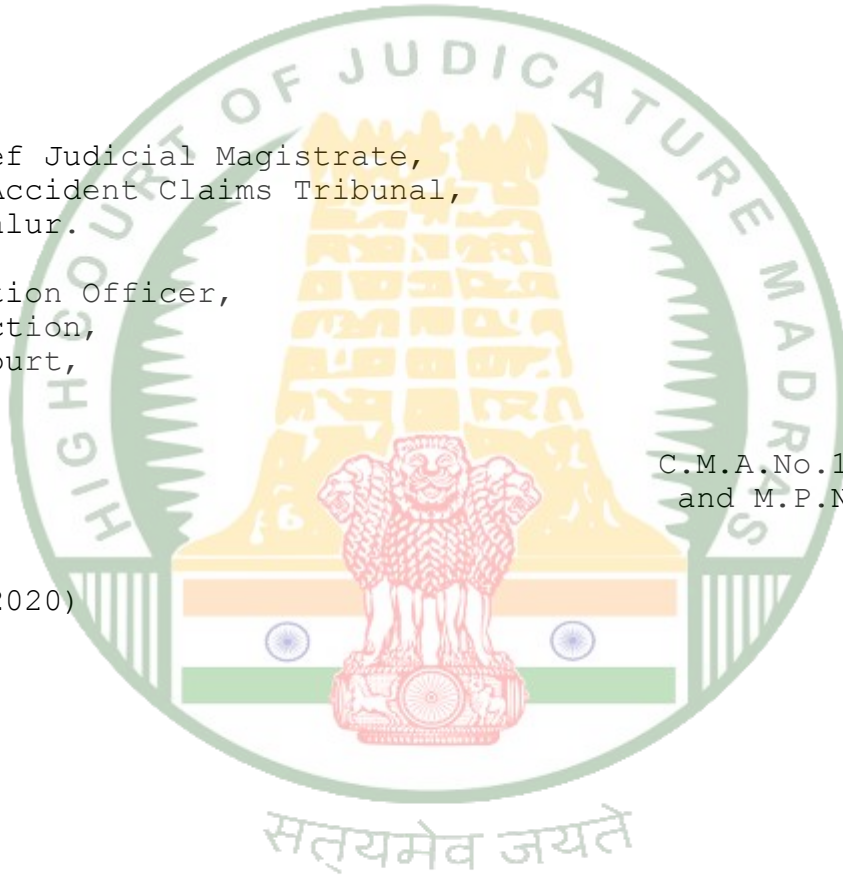
To

1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Perambalur.

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

C.M.A.No.1927 of 2009
and M.P.No.1 of 2009

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



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