

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.07.2019

CORAM

THE HON'BLE Mr. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal No.1945 of 2009
and M.P.No.1 of 2009

Managing Director,
Chennai Metropolitan Transport
Corporation
Division - 4
Bye-pass Road,
Dindugal

... Appellant/ Respondent

...vs...

R.Veera Raghavan ... Respondent/ Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 31.01.2007 made in M.C.O.P.No.5616 of 2005 on the file of the Motor Vehicles Accidents Claims Tribunal, IV Small Causes Court, Chennai.

For Appellant : Mr.V.Ramesh

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Transport Corporation, challenging the award passed by the Claims Tribunal in M.C.O.P.No.5616 of 2005 dated 31.01.2007.

2.The case in brief, is as follows:

On 23.04.2005, at about 8.45 hrs, when the respondent / claimant was proceeding on the G.S.T.Road by walk from East to West direction, the appellant's bus bearing Reg.No.TN-57-N-1205 came from the wrong direction in a rash and negligent manner and suddenly hit the respondent. Due to the said impact, the respondent sustained grievous injuries. Seeking a compensation of Rs.2,00,000/- from the appellant, the respondent has filed a claim petition. The Tribunal, based upon the facts, materials, evidence and also the dictum laid down in the decisions of the Apex Court, has awarded a total compensation of Rs.69,000/- with interest at the rate of 7.5% per annum from the date of petition. Challenging the same, the appellant Transport Corporation has filed this appeal.

3.The learned counsel for the appellant/Transport Corporation has submitted that the driver of the bus was not at fault and only the respondent herein without seeing the oncoming bus, has crossed the road and hence he himself has invited the accident. He further submitted that the compensation awarded at Rs.69,000/- is on the higher side and it needs significant reduction.

4.Despite ordering notice twice, the respondent was not served till date. However, due to efflux of time, the appeal is taken up for final disposal, on merits.

5.Heard the learned counsel for the appellant and perused the materials and evidence available on record carefully.

6.P.W.1/claimant was examined to prove the manner of accident. He deposed before the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus. Ex.P.1, FIR supports the version of P.W.1. P.W.2, Natarajan is the eye-witness to the accident, who has also deposed before the Tribunal on the same lines as deposed by P.W.1. To controvert the evidence of P.Ws.1 and 2, neither any document was filed nor any evidence adduced on the side of the appellant herein. In the circumstances, the Tribunal fixed the negligence on the bus driver and fastened the liability on the appellant herein, which in the considered view of this Court, is perfectly valid and hence, the same is confirmed as such.

7.With regard to the quantum of compensation, relying upon the evidence of P.W.3-Doctor, who assessed the disability of the injured at 45%, the Tribunal has awarded a sum of Rs.45,000/- towards permanent disability at the rate of Rs.1,000/- per percentage of disability, Rs.20,000/- towards pain and suffering and Rs.2,000/- each towards transportation expenses and extra nourishment. The amounts awarded towards these heads are just and very reasonable and hence, the same are confirmed.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Transport Corporation is directed to deposit the entire compensation amount, along with interest and costs, as awarded by the Claims 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. Consequently, the connected MP is closed.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

ssd

To

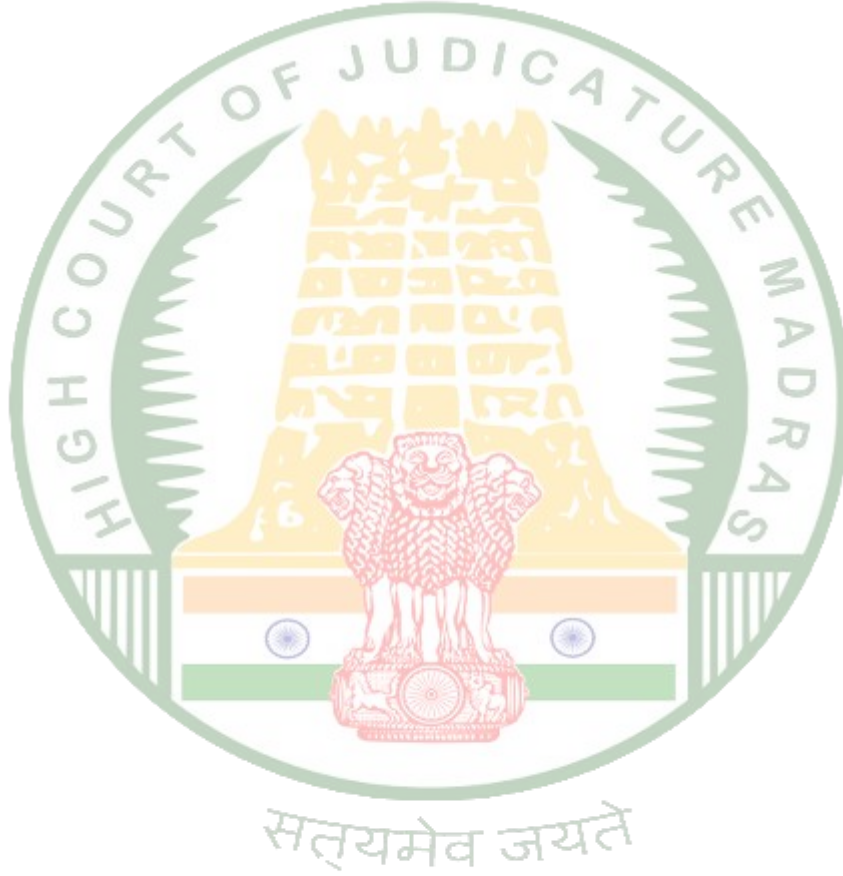
1.The Judge,
Motor Vehicles Accidents Claims Tribunal,
IV Small Causes Court, Chennai.

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