

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.08.2019
CORAM
THE HON'BLE Mr. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal No.2253 of 2009
and
M.P.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation,
Salem. ... Appellant/Respondent

..vs..

Aathayam ... Respondent/claimant

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 12.07.2005 made in M.C.O.P.No.100 of 2004 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court No.3, Namakkal.

For Appellant : Mr.P.Jagadeeswaran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Tamil Nadu State Transport Corporation, challenging the findings on negligence and the quantum of compensation awarded by the Claims Tribunal.

2. The case of the respondent / claimant is that on 17.09.2003 at about 3.45pm, when he was traveling in the Maruthi Omni car bearing Registration No.TN 59 E 7889 on the Rasipuram - Thiruchengode Main Road, near Kurukkapuram Bridge, the appellant Transport Corporation bus bearing Registration No.TN 27 N 1094, came in a rash and negligent manner and hit the respondent's car. Due to the said impact, the respondent sustained fractures and also injuries all over the body. He filed a claim petition claiming a sum of Rs.5,00,000/- as compensation before the Tribunal. As against the said claim, the Tribunal has awarded a sum of Rs.1,05,000/- with interest at the rate of 7.5% per annum from the date of petition, as total compensation payable by the appellant herein. Challenging the same, the appellant/Tamil Nadu State Transport Corporation has filed the present appeal.

3.Heard the learned counsel for the appellant. Despite ordering notice for more than a couple of occasions, the respondent has not been served till date. However, the Appeal

itself is taken up for final disposal, on merits, since the disposal of this case will not in any way affect the rights of the respondent.

4.The learned counsel for the appellant / Transport corporation submitted that the Tribunal erred in holding that the driver of the appellant's bus was responsible for the accident; in any event, the quantum arrived at by the Tribunal is excessive and exorbitant and needs considerable reduction.

5.An analysis of the award of the Tribunal would go to show that the evidence of P.Ws.1 to 3 corroborates with Ex.P-1-First Information Report; Ex.P-2-Motor Vehicle's Inspector's report disclose that there was no engine fault before the accident. Placing reliance on the above and observing that though the driver of the bus was examined before the Tribunal, he has not denied the mode/factum of accident in a proper way, the Tribunal has fastened the liability on the appellant's bus driver, which in the opinion of this Court, is perfectly valid and justified, since the same is supported by the materials and evidence on record.

6.As far as the quantum arrived at by the Tribunal is concerned, the Tribunal has calculated the loss of income at Rs.10,000/- and Rs.30,000/- towards future Income. Further, the Tribunal has awarded a sum of Rs.10,000/- towards disability, Rs. 5,000/- towards pain and suffering, Rs.45,000/- towards Medical bills and Rs.5,000/- towards extra nourishment and Transport charges. Thus, the Tribunal has estimated the total compensation at Rs.1,05,000/-.

7. This Court is of the opinion that the compensation awarded under all the heads by the Tribunal are reasonable, weight of evidence and based on settled principles and therefore, there is no ground to interfere with the judgment passed by the Tribunal below, in this respect.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. 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.

Sd/-
Asst.Registrar (CS II)

/true copy/
Sub Asst. Registrar

srk/tta

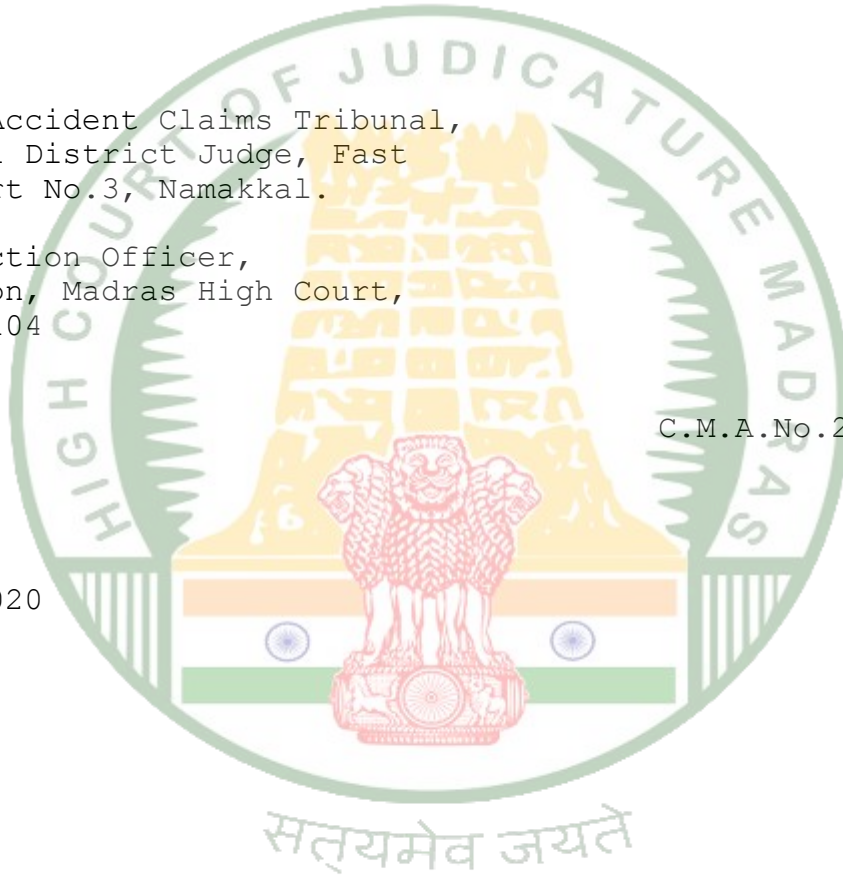
To

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

2. The Section Officer,
V.R.Section, Madras High Court,
Chennai 104

C.M.A.No.2253 of 2009

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