

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2341 of 2009

and

M.P.No.1 of 2009

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

Mr. Jagual Baga ... Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award made in M.C.O.P.No. 563 of 2004 dated 11.08.2008 on the file of the Motor Vehicle Accident Claims Tribunal and Sub Judge Ponneri.

For Appellant : Mr. S.V.Vasanthakumar

J U D G M E N T

The facts of the case in brief are as follows:

On the fateful day, i.e., on 23.12.2002, when the respondent herein was standing in the bus stop near Nelcast Company, Chennai, the appellant/Transport Corporation bus bearing registration No.TN-21-N-0303, hit the respondent, due to the rash negligent driving of the driver of the said bus. As a result of the same, the respondent sustained multiple injuries. He was admitted in the Government General Hospital, Chennai for treatment. He filed a claim petition claiming a sum of Rs.6,00,000/- as compensation before the Tribunal. The Tribunal, after examining the oral and documentary evidence adduced by both parties, awarded a total compensation of Rs.1,78,500/- with interest at the rate of 7.5% per annum from the date of petition. Aggrieved over the quantum so determined as excessive, the appellant -Transport Corporation is before this Court with the present appeal.

2.The learned counsel for the appellant - Transport Corporation contended that the Tribunal has erred in holding that the driver of the transport corporation bus was responsible for the accident. He further contended that the quantum of compensation awarded by the Tribunal is disproportionate to the injuries sustained by the respondent herein and there is no basis for awarding such a huge compensation and hence, the same needs to be reduced substantially.

3.Even though this appeal was admitted on 24.08.2009, the appellant Transport Corporation has not taken steps to serve papers to the respondent, even at this length of time. However, due to paucity of time, the appeal is taken up for final disposal, on merits.

4.Heard the learned Counsel for the appellant and perused the materials available on record carefully and meticulously.

5.A perusal of the award of the Tribunal would go to show that the driver of the Transport Corporation bus, in his evidence, has stated that he is not responsible for the accident, but deposed that he admitted the injured in the hospital. No documents was adduced on the side of the appellant herein to prove their claim that the accident had not taken place due to the negligence on the part of the bus driver. In these circumstances, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus, is confirmed.

6.With regard to the quantum of compensation, the respondent/claimant examined himself as P.W.1 and in his evidence, he deposed that he was aged 45 and was earning a sum of Rs.5000/- per month as a contract labourer in M/s.Nelcast Private Limited, Ponneri. It is seen that due to the accident, he sustained injuries in his right leg and he is not able to stand, sit and walk and to attend his usual works. Ex.P2 is the Wound Certificate and Ex.P7 is the disability certificate to the tune of 60%. Considering the materials and evidence available on record, the Tribunal has awarded a sum of Rs.7,500/- towards loss of income during the treatment period, Rs.60,000/- towards permanent disability, Rs.60,000/- towards future loss of earning capacity, Rs.3,000/- towards Transportation charges, Rs.7,000/- and Rs.1,000/- towards Extra Nourishment and Damage to articles, respectively. The Tribunal has also awarded a sum of Rs.40,000/- towards pain and suffering, considering the injuries suffered by the claimant. Having regard to the nature of the injuries sustained by the respondent/claimant, the compensation so awarded by the Tribunal under the above heads, are very reasonable and hence, the same are hereby confirmed.

7.In the result, affirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant-Transport Corporation is directed to deposit the entire award amount with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this Judgement. On such deposit, the respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True copy//

Sub Assistant Registrar

smn/srk

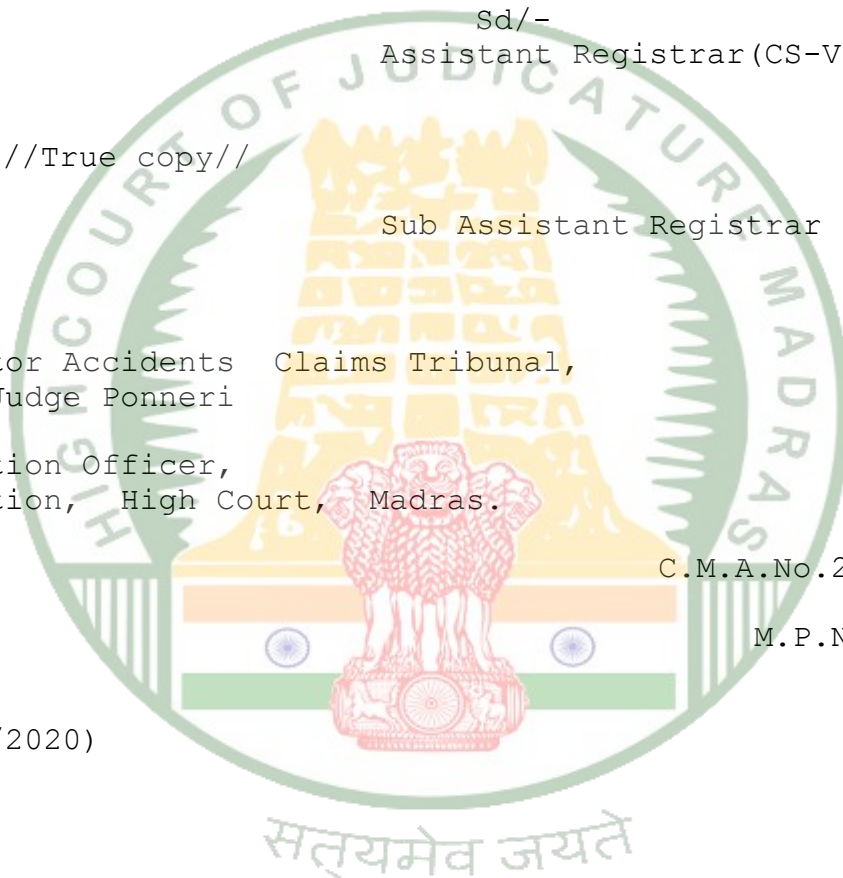
To

1. The Motor Accidents Claims Tribunal,
Sub Judge Ponneri

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

C.M.A.No.2341 of 2009
and
M.P.No.1 of 2009

CP(CO)
GMY(21/05/2020)



WEB COPY