

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.320 of 2009

and

M.P.No.1 of 2009

The Managing Director
Tamilnadu State Transport Corporation Ltd.,
Salamedu Vazhuthareddy,
Villupuram.

... Appellant/Respondent

Vs.

Murugavel

.. Respondent/Claimant

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 28.8.2008 made in M.C.O.P.No.216 of 2006 on the file of Motor Accidents Claims Tribunal, (Principal Subordinate Judge's Court) Cuddalore.

For Appellant : Mr. V.Kasiviswanathan

J U D G M E N T

This appeal is preferred by the Transport Corporation against the award of a sum of Rs.3,42,200/- towards compensation to the respondent/claimant due to the injuries sustained by him in a motor vehicle accident.

2. The case in brief is as follows:

On the fateful day, i.e., on 29.08.2005, at about 03.45 pm, when the respondent/claimant was riding his moped bearing Registration No.TN31 F 5663 on the left side of the Cuddalore to Chidambaram main Road, at Periyakumatti Village, a bus bearing Registration No. TN 32-N-1726 belonging to the appellant Transport Corporation came in a rash and negligent manner and dashed against the moped. Due to the said impact, the respondent/claimant sustained grievous injuries, for which, he filed a claim petition claiming a sum of Rs.5,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation

of Rs.3,42,200/- with interest at the rate of 7.5% per annum from the date of petition. Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

3. The learned counsel for the appellant Transport Corporation has submitted that the rider of the moped was also responsible for the accident and hence, the Tribunal ought to have fixed contributory negligence on him as well. He also submitted that the quantum of compensation awarded by the Tribunal is excessive, exorbitant and disproportionate to the injuries sustained by the respondent and hence, the same has to be reduced.

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

5. The Record of proceedings would disclose that notice was ordered way back in the year 2009, but no steps have been taken by the appellant Transport Corporation to serve papers to the respondent even at this length of time. However, having regard to the fact that the appeal is of the year 2009, this Court is inclined to decide this appeal on merits.

6. As regards the question on negligence, P.W.1/claimant stated in his evidence that while he was riding TVS XL bearing Regn.No. TN31 F5663, on Cuddalore -Chidambaram Main Road, the bus belonging to the appellant Transport Corporation came in a rash and negligent manner from the opposite direction and dashed against him and due to the same, he sustained grievous injuries. His evidence was corroborated by Ex.P1 -First Information Report, as per which, the criminal case was registered against the driver of the bus. Further, Ex.P2 motor vehicle inspector's report disclosed that the accident had not occurred due to any mechanical fault. Considering those oral and documentary evidence, the Tribunal has rightly concluded that the accident had occurred due to the rash and negligent driving of the driver of the bus, which this Court is not inclined to interfere.

7. With regard to the quantum of compensation awarded by the Tribunal, the respondent/claimant himself examined as P.W.1, who deposed that he was aged 27 years and was earning a sum of Rs.7,500/- per month. However, no proof was produced to substantiate the same. P.W.2/Doctor, who examined the claimant, deposed in his evidence that due to the injuries sustained by the respondent/claimant, his right hand was completely disabled; for which, he was issued Ex.P4-disability certificate to the

tune of 100%. Ex.P5 is X-ray. Placing reliance on those oral and documentary evidence, the Tribunal has rightly taken the monthly income of the respondent/claimant at Rs.2,000/- per month and permanent disability at 80%, adopted the multiplier of 16 as per the schedule to the Motor Vehicles Act and quantified the compensation under the head "loss of income due to permanent disability" at Rs.3,07,200/- (24,000/- x 16 x 80/100), which this Court is not inclined to interfere.

7.1 That apart, the Tribunal has awarded Rs.10,000/- towards medical expenses, Rs.2,500/- towards transport charges, Rs.2,500/- towards attendant charge, Rs.5,000/- towards extra nourishment and Rs.15,000/- towards pain and suffering and mental agony. Thus, the Tribunal has awarded the total compensation of Rs.3,42,200/- to the respondent/claimant, which are fair, just and reasonable and the same cannot be said to be excessive and exorbitant at any stretch of imagination, considering the nature of the injuries sustained by the respondent/claimant and in the given facts and circumstances of the case and hence, the same need not be interfered by this Court.

8.In fine, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant-Transport Corporation is directed to deposit the entire compensation amount with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit, the Tribunal shall transfer the same to the savings bank account of the respondent/claimant through RTGS within a period of one week thereafter. Consequently, connected Miscellaneous Petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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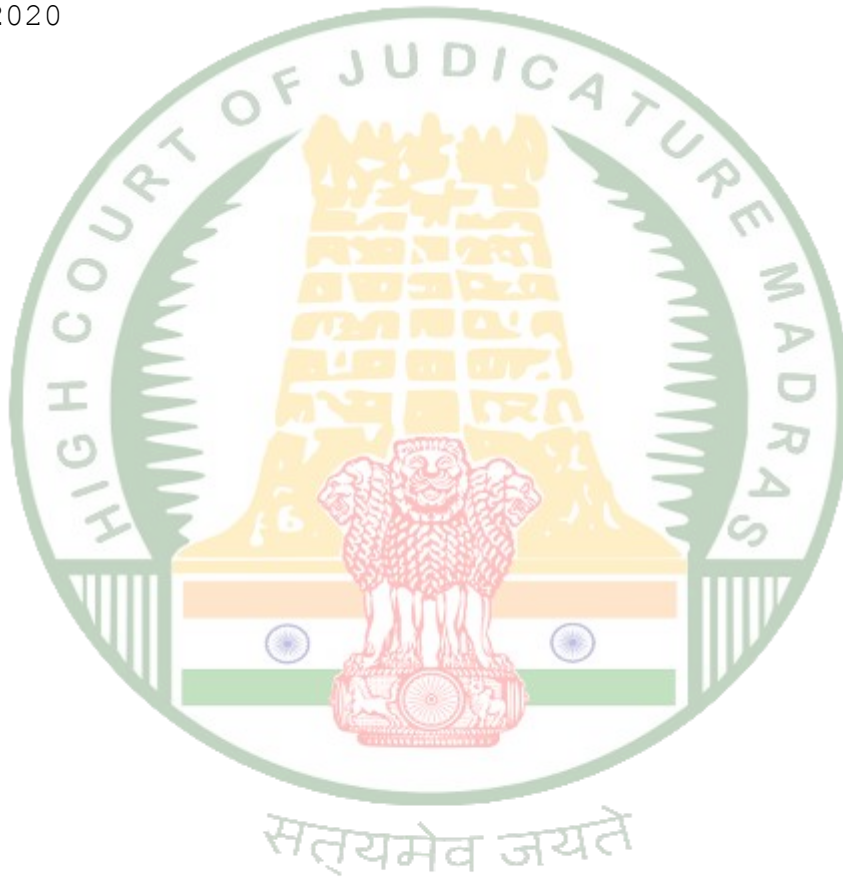
To

1. The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

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

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&
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