

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1290 of 2015 and
M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram) Limited,
No.3/137, Salamedu,
Vazhuthareddy,
Villupuram-605 602. ... Appellant / Respondent

Vs.

Minor Prakash,
S/o.Sivaji,
(Represented by N.F.Father) ... Respondent / Claimant

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 18.11.2013 made in M.C.O.P.No.2956 of 2008 on the file of the Motor Accidents Claims Tribunal, I Additional Sub Court, Cuddalore.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the award dated 18.11.2013 made in M.C.O.P.No.2956 of 2008 on the file of the Motor Accidents Claims Tribunal, I Additional Sub Court, Cuddalore.

2.The appellant is the respondent in M.C.O.P.No.2956 of 2008 on the file of the Motor Accidents Claims Tribunal, I Additional Sub Court, Cuddalore. The respondent filed the said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 20.10.2008.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation and directed the appellant-

Transport Corporation to pay a sum of Rs.3,19,780/- as compensation to the respondent/claimant. Challenging the said award dated 18.11.2013 made in M.C.O.P.No.2956 of 2008 granting compensation to the respondent, the appellant-Transport Corporation has come out with the present appeal.

4.The contention of the learned counsel appearing for the appellant-Transport Corporation is that the Tribunal erred in fixing negligence on the part of the driver of the bus belonging to the appellant-Transport Corporation and liability on the appellant-Transport Corporation merely based on the evidence of P.W.1, which has not been corroborated by any other witness. The Tribunal erred in fixing the age and monthly income of the respondent without any proof. The disability fixed by the Tribunal is on the higher side. In any event, the amounts awarded by the Tribunal is excessive.

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

6.From the materials on record it is seen that the appellant has not let in any evidence to disprove the contention of the respondent. Hence, the Tribunal considered the evidence of father of the respondent as P.W.1 and Ex.P1/copy of F.I.R. and held that the accident occurred only due to rash and negligent driving by the driver of the appellant-Transport Corporation bus. P.W.2/Doctor has deposed that the respondent suffered 30% of permanent disability. There is no contra evidence to disprove the said contention. Hence, the Tribunal has awarded a sum of Rs.60,000/- towards permanent disability at the rate of Rs.2,000/- per percentage. The Tribunal considered Ex.P12/medical bills and awarded a sum of Rs.37,780/- towards medical expenses. After considering the entire materials on record, the Tribunal awarded a total sum of Rs.3,19,780/- as compensation to the respondent/claimant, which is just compensation and not excessive. I do not find any error in the award passed by the Tribunal warranting interference by this Court.

7.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.3,19,780/- awarded by the Tribunal as compensation to the respondent, along with interest and costs is hereby confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.2956 of 2008. On such deposit, the Tribunal is directed to deposit the award amount in any one of the Nationalized Bank, till the minor respondent attain majority. The father of the minor respondent is permitted

to withdraw the accrued interest once in every three months, for the welfare of the minor respondent. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-V)

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Sub Assistant Registrar

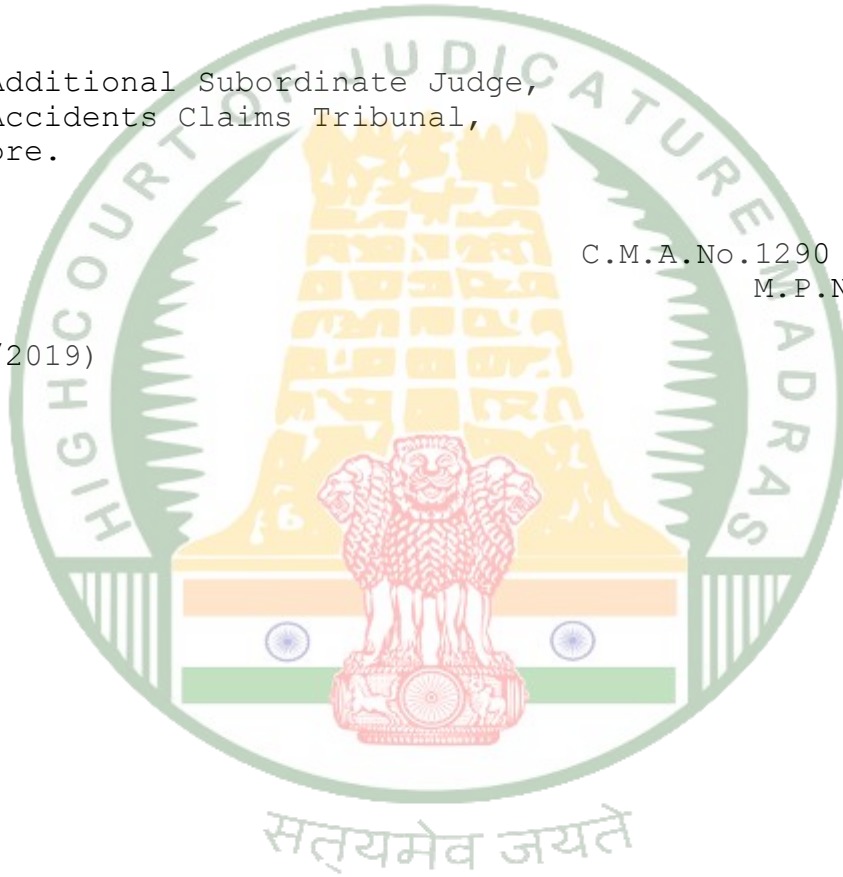
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To

1. The I Additional Subordinate Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

VBA (CO)
SSM(03/10/2019)

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