

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.792 of 2009

Ganesan

...Appellant/Claimant

vs

1. A. Sarojini
2. M/s National Insurance Company Ltd.,
No.11, Jerome Building,
1st floor, Fort Station,
Trichy - 2.Respondents/Respondents

Appeal filed under Section 173 of the Motor Vehicles Act against the Decree and Judgment passed in M.C.O.P.No.111 of 2006 dated 23.11.2007 on the file of the Motor Vehicle Accident Claims Tribunal/Chief Judicial Magistrate, Perambalur.

For Appellant : Mr.S.Kamadevan

For 2nd Respondent : Mr.S.Arunkumar

JUDGMENT

As against the dismissal of the claim petition in M.C.O.P.No.111 of 2006 dated 23.11.2007 on the file of the Motor Vehicle Accident Claims Tribunal/Chief Judicial Magistrate, Perambalur, the appellant, who was the claimant before the Tribunal, has preferred this appeal.

2.The case in brief, is as follows:

On the fateful day, ie. on 16.03.2005 at about 23.30 hours, the appellant herein was travelling in the State Express Transport Corporation bus bearing Registration No.TN-01-N-6117. When the said bus was proceeding from Namakkal to Chennai, a lorry bearing Registration No. TAY-5197 came in the opposite direction and dashed against the bus. Due to the said impact, the appellant herein sustained multiple and grievous injuries. The appellant has filed a claim petition before the Tribunal seeking compensation of Rs.40,000/-. However, the Tribunal has

dismissed the claim petition. Challenging the same, the appellant/claimant has filed the present Civil Miscellaneous Appeal.

3. The learned counsel for the appellant/claimant contended that the appellant travelled as a passenger in the SETC bus and sustained injuries and hence, he is entitled to claim compensation for the injuries sustained by him in the accident and prays to award the amount claimed by the appellant in the claim petition.

4. Per contra the learned counsel for the second respondent/Insurance Company would contend that the accident had taken place due to the inattentive attitude of the driver of the bus and they are not entitled to pay any compensation as negligence does not exist on the part of the driver of the lorry.

5. Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

6. The Tribunal has observed that the injured in his chief examination has stated that on the date of accident, i.e 16.03.2005, he was travelling as a passenger in the bus. But in the cross examination he has stated that he was the conductor of the bus. However, there is no proof for both the statements. For the treatment underwent by the injured he has produced some medical bills, but there was no hospital seal in the bills and neither the accident register nor discharge summary has been produced before the Tribunal. In the absence of any relevant proof on the part of the appellant, the Tribunal, having no other option, dismissed the claim petition.

7. The observations made by the Tribunal are based on materials and evidence available on record. Further no new fact is forthcoming to assail the reasonings rendered by the Tribunal. Hence, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

To

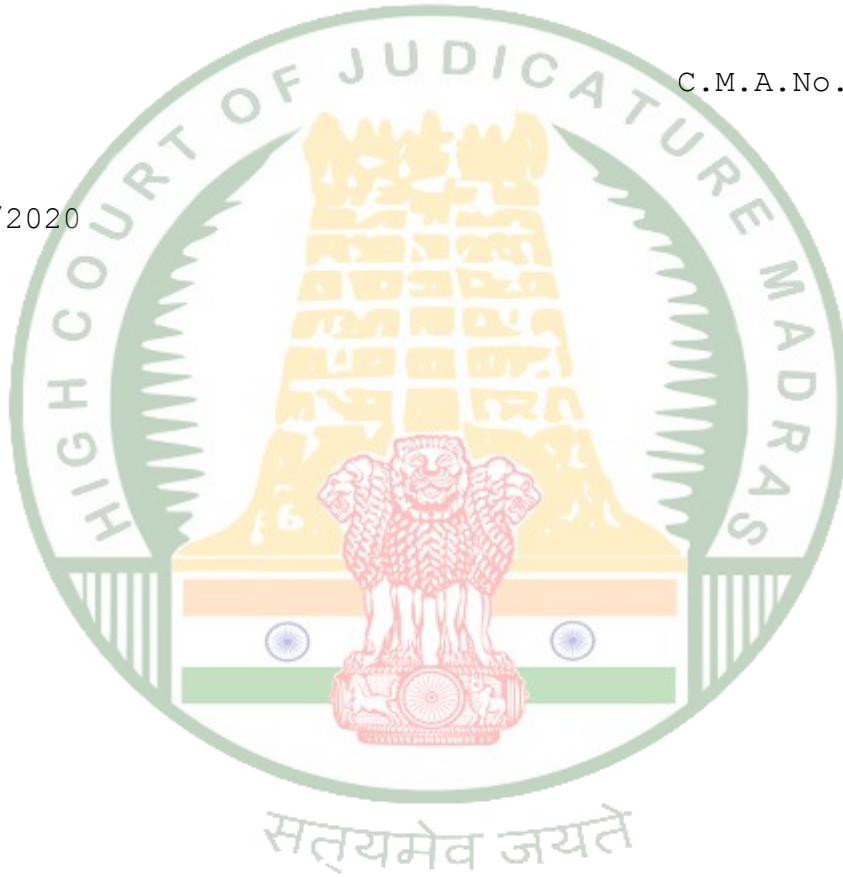
1 .The Motor Accidents Claims Tribunal
Chief Judicial Magistrate, Perambalur.

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

+lcc to Mr.S.Arunkumar, Advocate Sr.73358

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