

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.923 of 2009

and

M.P.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd., Vellore.

...Appellant /R2

Vs

1. Sampath

2. Murthy (Driver)

...Respondents/Petitioner
and first Respondent

Appeal filed under Section 173 of the Motor Vehicles Act against the Decree and Judgment made in M.C.O.P.No.105 of 2006 dated 12.09.2008 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Arani, Tiruvannamalai District.

For Appellant : Mr.S.V. Vasantha Kumar

For R1 : No appearance

R2 : Exparte

JUDGMENT

This appeal is preferred by the Appellant/Transport Corporation against the Decree and Judgment made in M.C.O.P.No.105 of 2006 dated 12.09.2008 passed by the Motor Accident Claims Tribunal, Arani.

2.The case in brief, is as follows:

On the fateful day, ie. on 06.03.2006 when the first respondent herein was travelling in the appellant's bus from Sandanavasal to Vellore, the driver of the bus drove the same in a rash and negligent manner and dashed against a tamarind tree. As a result of the same, the first respondent sustained grievous injuries all over the body and admitted in C.M.C. Hospital, Vellore, where he was treated as in-patient for a period of 2 months. The first respondent herein filed a claim petition

before the Tribunal seeking a compensation of Rs.2,00,000/-. On a consideration of the materials and evidence available on record, the Tribunal has arrived at the total compensation at Rs.88,012/- with interest at the rate of 7.5% p.a. from the date of petition. Challenging the findings on negligence and quantum, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant/Transport Corporation has submitted that the Tribunal has erred in holding that the driver of the appellant's bus is the cause for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

4.Despite service of notice, there is no appearance on behalf of the first respondent.

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

6.Before the Tribunal, the injured himself was examined as P.W.1, who deposed that the negligent driving of the driver of the bus is the cause for the accident. R.W.1/driver of the bus in his evidence has adduced that there was some engine problem in the bus and the brake wire was cut, which was observed by him while applying the brake and because of the same, the accident took place. The evidence of R.W.1 would reveal that the bus was not in road worthy condition. It is the duty of the appellant to keep the bus in a road worthy condition, since the lives of people are involved. Further, a perusal of the award of the Tribunal establishes the fact that it has analysed all the materials and documents perfectly and has fixed the liability on the appellant.

7.With regard to the quantum of compensation, P.W.2/Doctor who assessed the injuries of the claimant has stated that the claimant has suffered 40% disability and he has also issued Ex.P4-Disability certificate to that effect. Considering the same, the Tribunal has awarded a sum of Rs.70,000/- towards disability. Based on Exs.P.2 to P.5 the Tribunal has awarded Rs.2,500/- towards pain and sufferings, Rs.2,500/- towards extra nourishment and Rs.13,012/- towards medical bills. The findings rendered on quantum by the Tribunal are based on settled principles of law, probabilities of case and weightage of evidence. Hence, this Court is of the view that the award passed by the Tribunal is perfectly valid in the eye of law and no interference is required.

8.In the result, the Civil Miscellaneous Appeal is dismissed. The appellant/Transport Corporation is directed to

deposit the award amount as ordered by the Tribunal with interest and costs, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent / claimant is permitted to withdraw the same on making proper application before the Tribunal. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

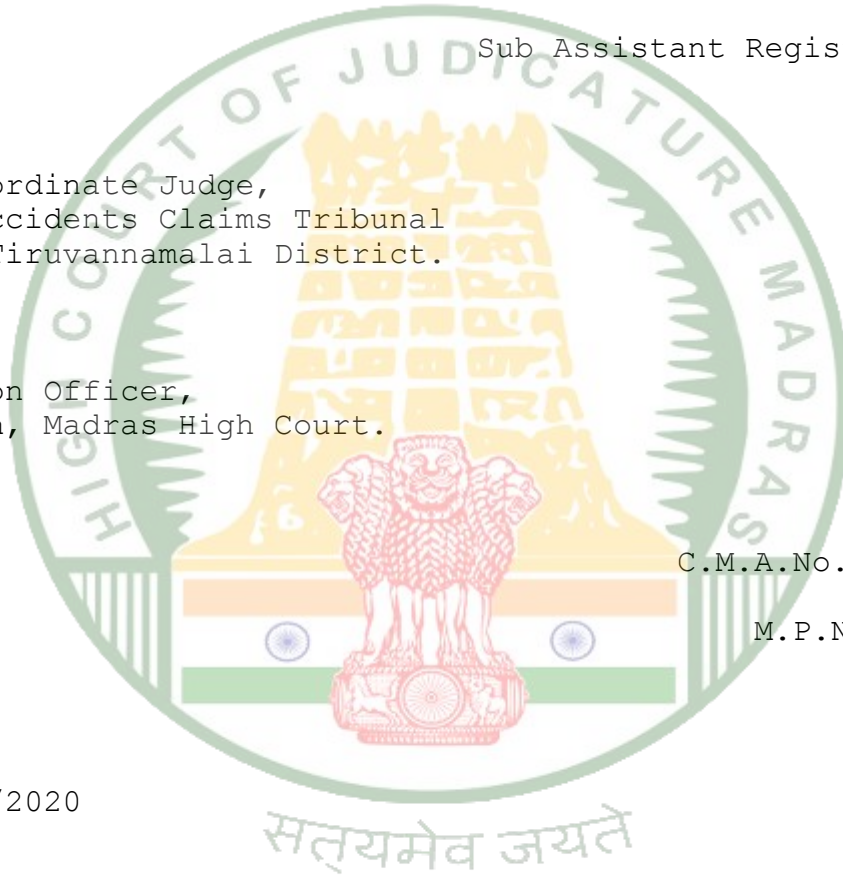
The Subordinate Judge,
Motor Accidents Claims Tribunal
Arani, Tiruvannamalai District.

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The Section Officer,
VR Section, Madras High Court.

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and
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