

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2504 of 2012
and M.P.No.1 of 2012

The Managing Director,
Tamil Nadu State Transport Corporation
Division III
Kancheepuram.

... Appellant/ Respondent

Vs

P.Babu

... Respondent/ Petitioner

Prayer:Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 23.11.2010 made in MCOP No.311 of 2008 on the file of the Motor Accidents Claims Tribunal, Fast Track Court No.4, Ponneri.

For Appellant : Mr.S.V.Vasanthakumar
For Respondent : No Appearance

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.1,20,000/- towards compensation to the respondent, due to the injuries suffered by him in a motor vehicle accident.

2.The case in brief, is as follows:

On 01.10.2006 at about 21.30 hours, the respondent was proceeding from Ponneri to Thatchur in the Bajaj Discover motorcycle bearing Reg.No.TN-20-AX-9463. When he reached near Krishnapuram Bus Stop, the bus bearing Reg.No.TN-21-N-0468, belonging to the appellant Transport Corporation, came from the opposite direction in a rash and negligent manner and dashed against the two-wheeler which the respondent was riding. Due to the said impact, the respondent sustained grievous injuries. The respondent filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,20,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the Tribunal has erred in holding that the appellant's bus driver was rash and negligent and was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.It is seen that the respondent has not been properly served. Even though notice regarding admission and interim stay was ordered on 11.09.2012, no steps have been taken on the side of the appellant to serve papers to the respondent.

6.Considering the deposition made by P.W.1-injured that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation; that the injured sustained grievous injuries on account of the accident; that no one has been examined on the side of the Transport Corporation in this connection, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation, which factual finding this Court is not inclined to interfere.

7.With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has awarded a sum of Rs.1,00,000/- towards injuries and other losses, taking note of the evidence of P.W.2-Doctor who deposed that the 2nd heel bone of the right leg of the injured got fractured and there was malunion of bones; that the claimant cannot walk as before; that there was loss of skin from the right knee till the heel. The Tribunal has also awarded a sum of Rs.12,000/- towards medical expenses and transportation expenses and Rs.8,000/- towards pain and suffering. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above heads and hence the same need not be interfered with by this Court.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

9.The appellant Transport Corporation is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already

deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent /claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KM

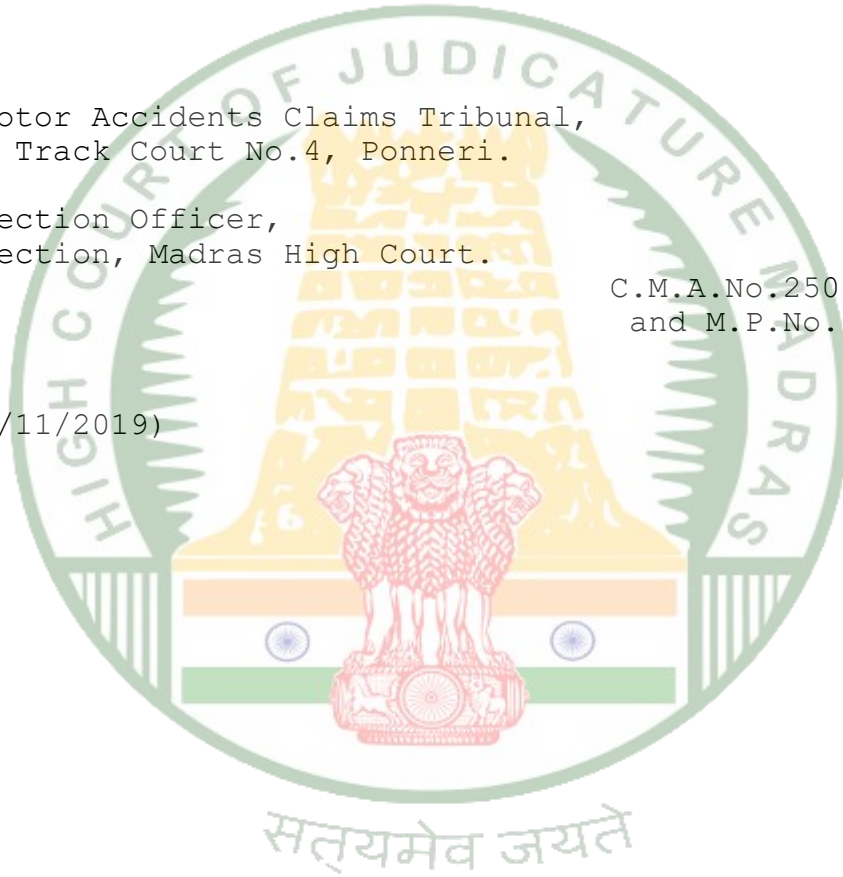
To

1.The Motor Accidents Claims Tribunal,
Fast Track Court No.4, Ponneri.

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

C.M.A.No.2504 of 2012
and M.P.No.1 of 2012

mr
A.SK(13/11/2019)



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