

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.637 of 2012
and
M.P.No.1 of 2012

State Express Transport
Corporation Limited (Tamil Nadu Division-I)
rep.by its
Managing Director, Chennai
(cause title accepted vide Order of Court
dated 23.02.07 and made in C.M.P.No.
1558 of 2005) ... Appellant

Vs.

Jayapal ... Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988 against the Judgment and Decree
dated 22.11.2002 made in M.C.O.P.No.54 of 1997 on the file of
the Motor Accidents Claims Tribunal (Additional District Court),
Dharmapuri.

For Appellant : Mr.V.Udayakumar

For Respondent : Mr.C.Prabakaran

JUDGMENT

This Civil Miscellaneous Appeal has been filed against
the order and Decree dated 22.11.2002 made in M.C.O.P.No.54 of
1997 on the file of the Motor Accidents Claims Tribunal
(Additional District Court), Dharmapuri.

2. The case of the claim petition is that on 23.07.1996
at about 2.45 p.m., the claimant was proceeding in his by-cycle
from Dharmapuri to old Dharmapuri on the left extreme mid
portion of the road by observing all the rules of the road. At
that time, the bus belonging to the appellant-Transport
Corporation was driven by its driver, namely Densen in a rash
and negligent manner without observing any rules of the road and
in high speed, and he dashed against the claimant; due to the

impact, the claimant fell down from the cycle and sustained grievous injuries, and the cycle also got fully damaged.

3. The Tribunal, after taking into consideration the oral and documentary evidence, awarded a compensation of Rs.1,20,000/- with interest at 9% per annum.

4. Heard both sides and perused the materials available on record.

5. Before the Tribunal, the claimant was examined himself as P.W.1 and Exhibit P1-F.I.R, Exhibit P2-wound certificate and Exhibit P3-Permanent Disability Certificate were marked. On behalf of the respondent, none was examined and no document was marked.

6. Based upon the oral evidence of injured, coupled with Exhibit P1 and in the absence of any contra evidence being let in by the Transport Corporation, the Tribunal has come to the conclusion that the accident has taken place due to the rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation and on re-appreciation of the evidence, the same is hereby confirmed.

7. On the point of quantum, the learned counsel for the appellant has submitted that the Tribunal has not properly appreciated the nature of the injury and it has awarded Rs.10,000/- for grievous injury and another Rs.5,000/- for two simple injuries and also granted Rs.90,000/- for the 30% disability/pain and suffering. Further, a sum of Rs.10,000/- was granted towards medical expenses. A sum of Rs.2,000/- was also awarded for transportation and for extra-nourishment, a sum of Rs.3,000/- was awarded. Totally, a sum of Rs.1,20,000/- was awarded by the Tribunal as compensation to the claimant. On going through the same, this Court finds that the permanent disability has been fixed as per Exhibit P3 as 30% which is reasonable and accordingly, a sum of Rs.60,000/- alone is granted for permanent disability and the separate amounts awarded for the grievous injury for Rs.10,000/- and simple injury another Rs.5,000/- are hereby stand vacated. It appears that in the absence of any medical bill, the Tribunal seems to have granted Rs.10,000/- and the same is hereby vacated.

8. Taking into consideration the place of the accident and the treatment taken thereafter, for 'transportation' a sum of Rs.10,000/- is awarded and for 'extra-nourishment', Rs.10,000/- is awarded and due to the injuries and for 'pain and sufferings', Rs.20,000/- is awarded and for attender charges' another Rs.5,000/- is awarded and for the loss of amenities Rs.10,000/- is awarded.

9. Hence, total compensation is hereby modified as follows:

Heads	Trial Court	High Court
Grievous injury	Rs. 10,000/-	----
Two simple injuries	Rs. 5,000/-	----
30% disability and pain and sufferings	Rs. 90,000/-	Rs. 60,000/-
Medical expenses	Rs. 10,000/-	----
Transport expenses	Rs. 2,000/-	Rs. 10,000/-
Extra-nourishment	Rs. 3,000/-	Rs. 10,000/-
Pain and sufferings	----	Rs. 20,000/-
Attender charges	----	Rs. 5,000/-
Loss of amenities	----	Rs. 10,000/-
Total	Rs. 1,20,000/-	Rs.1,15,000/-

10. The learned counsel for the appellant/Transport Corporation stated that the entire award amount has already been deposited and the appellant-Transport Corporation shall deposit the balance amount, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. If any excess amount is deposited by the appellant-Transport Corporation, the same shall be refunded to them.

11. With the above modification in the amount awarded by the Tribunal, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Insp.Cell)

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Sub Assistant Registrar

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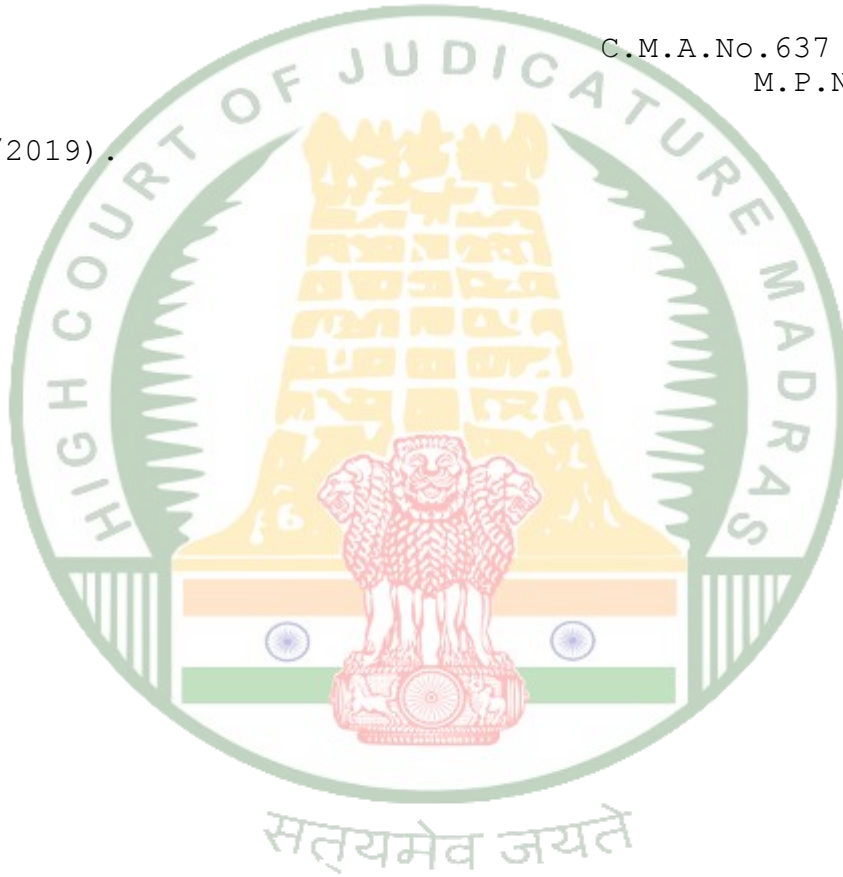
To

- 1) The Motor Accidents Claims Tribunal
(Additional District Court),
Dharmapuri.
- 2) The Section Officer,
VR Section, High Court, Madras.

+1 cc to Mr.V.Udayakumar, Advocate, S.R.No.23962

C.M.A.No.637 of 2012 and
M.P.No.1 of 2012

SS (CO)
SSM(17/07/2019).



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