

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2090 of 2018

and

C.M.P.No.16213 of 2018

The Managing Director,
Tamil Nadu Transport Corporation,
(Coimbatore) Limited,
37, Mettupalayam Road,
Coimbatore.

... Appellant/2nd respondent

Vs.

1. Aaral

...1st Respondent/ Petitioner

2. P.Karumbusami

... Respondents/1st respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 27.03.2014 made in M.C.O.P.No.887 of 2012 on the file of Motor Accident Claims Tribunal, (Subordinate Judge), Dharapuram.

For Appellant : Mrs.R.T.Sundari

J U D G M E N T

This appeal is preferred by the Transport Corporation against the award of a sum of Rs.79,050/- towards compensation to the first respondent/claimant due to the injuries sustained by her in a motor vehicle accident.

2. The case in brief is as follows:

On the fateful day, i.e., on 15.11.2011, about 4.40pm, the first respondent/claimant was walking on the Dharapuram - Tiruppur Road. When he reached near Gounder Tea shop, a TNSTC bus bearing registration number TN-33-N-2214 belonging to the appellant Transport Corporation, came in a rash and negligent manner from the opposite direction and dashed against the first respondent/claimant. Due to the said impact, the first respondent/claimant sustained grievous injuries. Stating that the accident had occurred only due to the rash and negligent driving of the driver of the bus, she filed a claim petition claiming compensation of Rs.5,00,000/-. On consideration of the materials and evidence available on record, the Tribunal awarded

a total compensation of Rs.79,050/- with interest at the rate of 7.5% per annum from the date of petition. Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant Transport Corporation has submitted that the first respondent/claimant was also responsible for the accident and hence, the Tribunal ought to have fixed contributory negligence on her as well. She also submitted that the quantum of compensation awarded by the Tribunal is excessive and exorbitant and hence, the same has to be reduced to some extent.

4.Heard the learned Counsel for the appellant and perused the materials available on record carefully and meticulously.

5.As regards the question on negligence, P.W.1/claimant stated in her evidence that while she was walking in the Dharapuram - Tiruppur Road, the bus belonging to the appellant Transport Corporation came in a rash and negligent manner from the opposite direction and dashed against her and due to the same, she sustained grievous injuries. Her evidence was corroborated by Ex.P1-First Information Report, as per which, the criminal case was registered against the driver of the bus. Further, Ex.P4 Motor Vehicle Inspector's Report disclosed that the accident had not occurred due to any mechanical fault. Considering those oral and documentary evidence, the Tribunal has rightly concluded that the accident had occurred due to the rash and negligent driving of the driver of the bus, which finding this Court is not inclined to interfere.

6.With regard to the quantum of compensation awarded by the Tribunal, the first respondent/claimant stated that she was aged 70 years and was earning a sum of Rs.9,000/- per month by doing agricultural work. However, no proof was produced to substantiate the same. P.W.2/Doctor deposed about the nature of the injuries sustained by the first respondent/claimant and issued Ex.P12-disability certificate to the tune of 22%. Ex.P11 is X-ray and Ex.P3-wound certificate. The Tribunal, after considering the materials and evidence let-in by the first respondent/claimant, determined Rs.20,000/- towards pain and suffering, Rs.3,000/- towards extra nourishment, Rs.2,000/- towards transportation, Rs.38,500/- towards permanent disability, Rs.5,550/- towards medical expenses, Rs.10,000/- towards discomfort and thus, awarded Rs.79,050/- as total compensation, which are just and reasonable and hence, the same are hereby confirmed.

7.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant Transport Corporation is directed to deposit the entire award amount with interest and costs, as ordered by the Tribunal, less the amount already deposited, if any, within a period of four weeks from the date

of receipt of a copy of this Judgement. On such deposit being made, the Tribunal shall transfer the same to the savings bank account of the first respondent/claimant through RTGS, within a period of one week thereafter. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

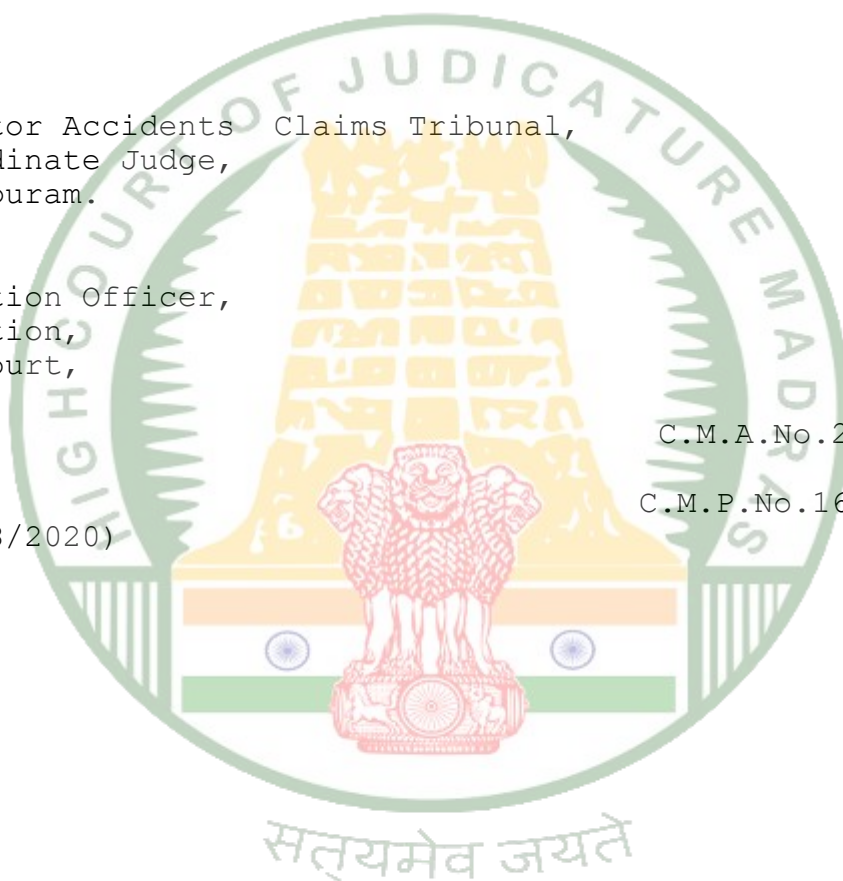
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To

1. The Motor Accidents Claims Tribunal,
Subordinate Judge,
Dharapuram.

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

C.M.A.No.2090 of 2018
and
C.M.P.No.16213 of 2018

A.SK(27/08/2020)



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