

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.08.2019
CORAM
THE HON'BLE MR. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal No.1094 of 2009
and
M.P.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation,
Division I, Villupuram. ... Appellant/Respondent

...vs..

Kuppan ... Respondent/Claimant

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 29.01.2007 made in M.C.O.P.No.384 of 2005 on the file of the Motor Accident Claims Tribunal, Sub Court, Gingee.

For Appellant : Mr. S.V.Vasantha Kumar
For Respondent : Mr.Magesh

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant Transport Corporation, challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal.

2. The case of the respondent / claimant is that on 19.08.2001 at about 07.50 am, he was travelling as a passenger in the appellant / transport Corporation bus bearing Registration No.TN32-N-0755. The said bus was proceeding on the Ginjee-Villupuram Road and when the bus reached near Poothamedu Village due to the rash driving of the driver of the bus, it hit against a tree. Due to the said impact, the respondent sustained grievous injuries. The respondent filed a claim petition claiming a sum of Rs.6,00,000/- before the Tribunal. As against the said claim, the Tribunal has awarded a sum of Rs.5,29,800/- with interest at the rate of 7.5% per annum from the date of petition, as total compensation. Challenging the same, the appellant / Transport Corporation has filed the present Appeal.

3.Heard the learned counsel on either side and perused the materials available on record.

4.The Tribunal, based upon the facts, materials and evidence, more particularly the evidence of P.W.1-claimant coupled with Ex.P1-FIR and Ex.P3-Motor Vehicle Inspector's Report, has fixed the negligence on the part of the appellant's bus driver. This Court is of the opinion that the compensation awarded under all the heads by the Tribunal, are reasonable, weightage of evidence and based on settled principles of law. Excepting the driver of the appellant's bus, nobody has been examined to speak about the manner of accident. The driver of the bus has also not denied the factum of accident. No documents have been produced by the appellant to controvert the claim of the claimant. In the said circumstances, the finding of the Tribunal 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, is confirmed.

5.With regard to quantum of compensation, the Tribunal has calculated the loss of income at Rs.5,14,800/-, by fixing the monthly income of the claimant at Rs.6,000/- as Mason as well as Maistry, adopting the multiplier of '11' and taking note of the percentage of disability at 65% (as assessed by the Doctor). Further, the Tribunal has awarded a sum of Rs.10,000/- towards pain and suffering and Rs.5,000/- towards Extra Nourishment. The amounts awarded by the Tribunal towards the above heads are very reasonable and hence the same are confirmed.

6.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant Transport Corporation shall deposit the entire compensation amount, along with interest and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the respondent / claimant is permitted to withdraw the same on making proper application before the Tribunal.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

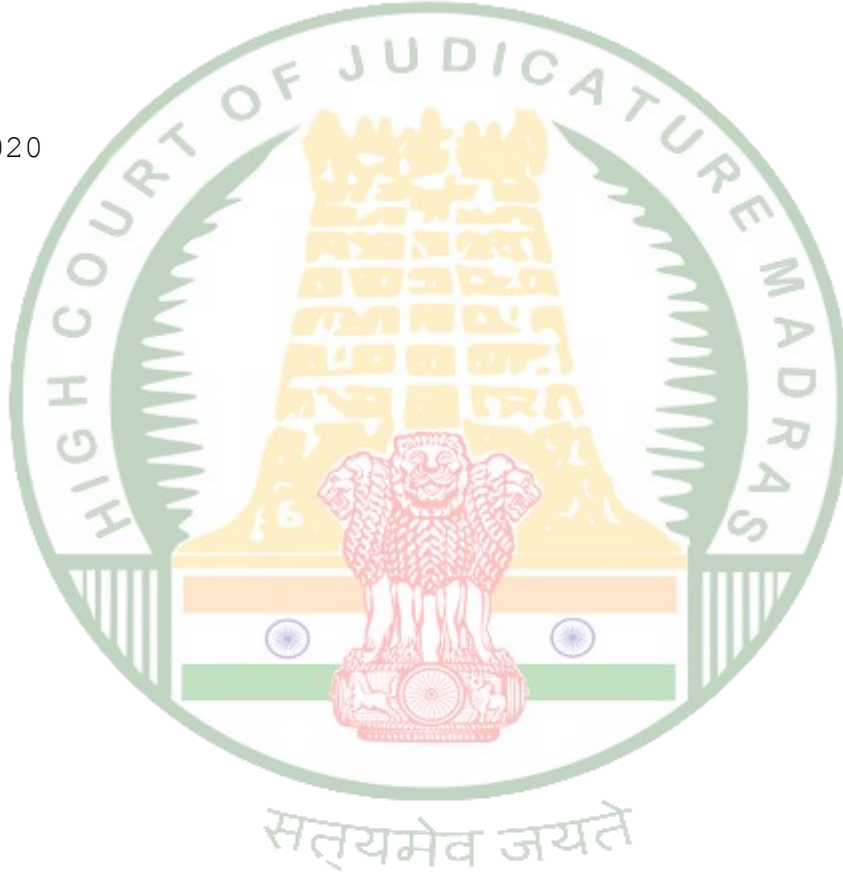
srk/tta

To

1. Motor Accident Claims Tribunal, Sub Court, Gingee.
2. The Section Officer, V.R.Section,
Madras High Court, Chennai 104.

C.M.A.No.1094 of 2009

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