

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.432 of 2018

K.Manimaran

.. Appellant/Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai, Chennai 2. ... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the award dated 25.09.2014 made in M.C.O.P.No.4795 of 2012 on the file of the III Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.A.N.Viswanatha Rao

For Respondent : Mr.K.S.Suresh

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the order of dismissal dated 25.09.2014 made in M.C.O.P.No.4795 of 2012 on the file of the III Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

2.The appellant/claimant filed M.C.O.P.No.4795 of 2012 on the file of the III Court of Small Causes, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 08.07.2012. The Tribunal considering the pleadings, oral and documentary evidence, held that the driver of the bus belonging to the respondent-Transport Corporation is not negligent and dismissed the claim petition. Challenging the said order of dismissal dated 25.09.2014 made in M.C.O.P.No.4795 of 2012, the appellant/claimant has come out with the present appeal.

3.The learned counsel appearing for the appellant contended that the Tribunal failed to consider the evidence of eye-witness in proper perspective. The Tribunal erred in relying on FIR,

when Head Constable who gave the complaint was not examined. The Tribunal failed to appreciate the evidence on the issue of negligence. The Tribunal erred in dismissing the claim petition even without deciding the quantum of compensation and prayed for allowing the appeal.

4. Heard the learned counsel appearing for the appellant as well as the respondent and perused the materials available on record.

5. From the materials on record, it is seen that at the place of accident, the Head Constable of the traffic police was present and from the award of the Tribunal, it is seen that he is the eye witness. According to the Head Constable, the appellant drove the motorcycle in the wrong direction i.e., one way with two persons in pillion and drove the vehicle in a rash and negligent manner, inspite of caution given by the Head Constable by blowing whistle. The appellant has not given any complaint against the driver of the bus or object to the complaint given against him. Further, the Head Constable who lodged the complaint against the appellant is an independent person. In addition to that, the respondent has examined the driver and conductor of the bus to prove that the accident occurred only due to negligence on the appellant. The Tribunal considering the evidence of R.W.1, R.W.2 and FIR, accepted the contention of the respondent and rejected the evidence of appellant as P.W.1 and dismissed the claim petition. There is no error in the said finding of the Tribunal warranting interference by this Court.

6. In the result, this Civil Miscellaneous Appeal is dismissed. No costs.

-s/d-

Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

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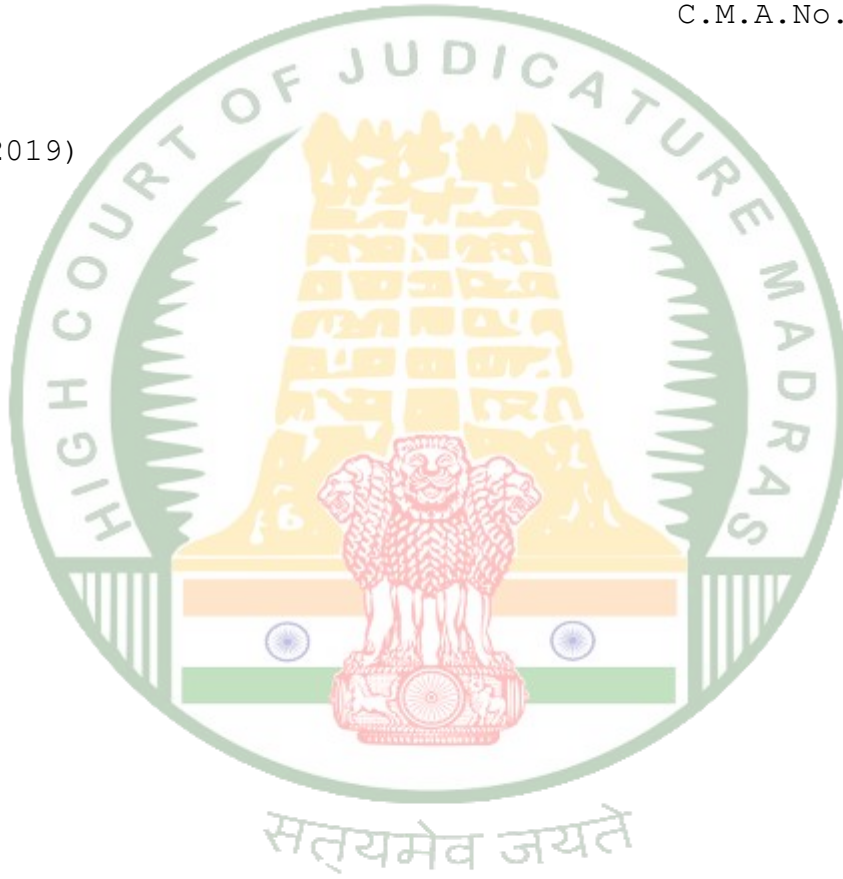
1. The III Court of Small Causes,
(Motor Accident Claims Tribunal), Chennai.

2.The Section Officer,
V.R. Section,
High Court, Madras.

+1 CC to Mr.A.N.Viswanatha Rao, Advocate sr 18653.

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NMI (CO)
SP(19/09/2019)



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