

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.938 of 2018 and
C.M.P.No.7660 of 2018

The Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
New Railway Station Road,
Kumbakonam - 612 001. ... Appellant / Respondent

Vs.

K.Sivakandan ... Respondent / Petitioner

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 04.07.2017 made in M.C.O.P.No.3741 of 2014 on the file of the Motor Accident Claims Tribunal, I Additional District and Sessions Court, Cuddalore.

For Appellant : Mr.T.Ananthasekar for
Mr.D.Venkatachalam

For Respondent : Ms.V.Gayathri for
Mr.R.Sreedhar

J U D G M E N T

The Civil Miscellaneous Appeal is filed against the award dated 04.07.2017 made in M.C.O.P.No.3741 of 2014 on the file of the Motor Accident Claims Tribunal, I Additional District Court and Sessions Court, Cuddalore.

2.The appellant is the respondent in M.C.O.P.No.3741 of 2014 on the file of the Motor Accident Claims Tribunal, I Additional District Court and Sessions Court, Cuddalore. The respondent filed the above said claim petition claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by him in the accident that took place on 16.01.2014.

3.The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging

the appellant-Transport Corporation and directed the appellant-Transport Corporation to pay a sum of Rs.11,05,030/- as compensation to the respondent.

4.Against the said award dated 04.07.2017 made in M.C.O.P.No.3741 of 2014, the appellant-Transport Corporation has come out with the present appeal.

5.The learned counsel appearing for the appellant-Transport Corporation contended that the bus belonging to the appellant was not involved in the accident. The respondent was riding his motorcycle in a drunken mood and the accident has occurred involving some other vehicle. The complaint was given by father of the respondent 4 days after the accident. There was no explanation for the delay. In the accident register, it was mentioned that the respondent was in a drunken mood. There is no mention about registration number of the appellant's bus. R.W.1/Special Sub Inspector of Police has deposed that he filed final report before the Judicial Magistrate No.II, Ulundurpet, that the bus of the appellant-Transport Corporation was not involved in the accident. The Tribunal failed to properly appreciate the evidence of R.W.2/driver of the appellant's bus. The Tribunal erroneously adopted multiplier method for awarding compensation for disability and the compensation awarded by the Tribunal under different heads are excessive and prayed for setting aside the award passed by the Tribunal.

6.Per contra, the learned counsel appearing for the respondent contended that the respondent examined himself as P.W.1/injured eye-witness and proved that accident occurred only due to rash and negligent driving by the driver of the bus belonging to appellant-Transport Corporation. Due to the grievous injuries suffered by the respondent, his right hand was amputated. Before the accident, the first respondent was working as Security Guard and was earning a sum of Rs.20,000/- per month. Due to the amputation, he could not do any work as he was doing earlier. The Tribunal erroneously fixed meager sum of Rs.6,000/- as monthly income of the respondent and the total compensation awarded by the Tribunal is meager and prayed for dismissal of the appeal.

7.Heard the learned counsel for the appellant as well as the respondent and perused the entire materials on record.

8.From the materials available on record it is seen that the contention of the learned counsel for the appellant is that the bus belonging to the appellant was not involved in the accident and the respondent sustained injuries by involvement of some other vehicle. To substantiate this contention, the appellant examined R.W.1/Special Sub Inspector of Police, who investigated

the case and R.W.2/driver of the appellant's bus. R.W.1 deposed that he filed final report before the Judicial Magistrate No.II, Ulundurpet, stating that bus belonging to the appellant was not involved in the accident, after examining the witness in the place of occurrence. In the cross examination, he has admitted that he did not examine the respondent, who was taking treatment after the accident. He also did not mention the names of the persons, whom he examined at the place of occurrence. Further he deposed that the vehicle of the appellant alleged to have involved in the accident was in the Police Station from 15.01.2014. On the other hand, R.W.1/driver of the bus deposed that on 16.01.2014 i.e., on the date of accident he was driving the bus and he has crossed the place of occurrence mentioned by the respondent. The Tribunal considering the evidence of P.W.1, F.I.R., registered against the driver of the bus and evidence of R.W.1 and R.W.2, held that accident occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation. There is no error in the above finding of the Tribunal warranting interference by this Court.

9.As far as quantum of compensation is concerned, the Tribunal considering the nature of injuries, evidence of P.W.2/Doctor awarded compensation under different heads, which are just and reasonable. There is no error in the award passed by the Tribunal warranting interference by this Court.

10.In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.11,05,030/- awarded by the Tribunal as compensation to the respondent/claimant, along with interest and costs is confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.3741 of 2014 on the file of the Motor Accident Claims Tribunal, I Additional District Court and Sessions Court, Cuddalore. On such deposit, the respondent is permitted to withdraw the award amount, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

krk

To

1. The I Additional District and Sessions Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

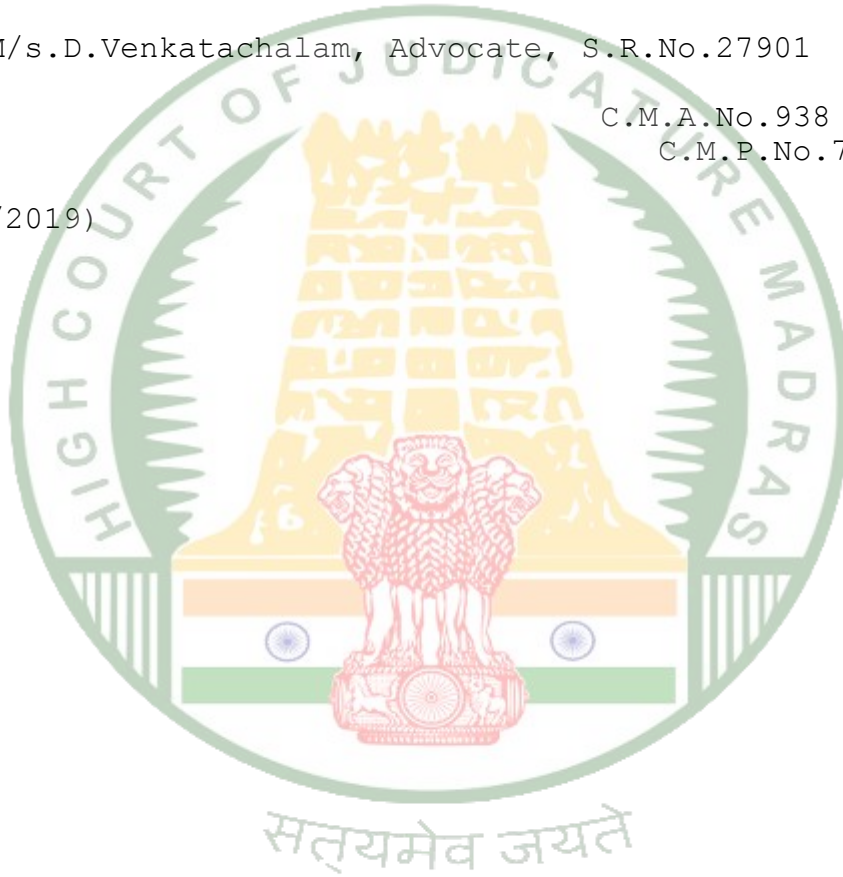
2. The Section Officer,
VR Section,
High Court, Madras.

+1 cc to M/s.R.Sreedhar, Advocate, S.R.No.28732

+1 cc to M/s.D.Venkatachalam, Advocate, S.R.No.27901

C.M.A.No.938 of 2018 and
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SJ(CO)
SSM(23/07/2019)



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