

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.10.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1600 of 2017
and M.P.No.1 of 2009

The Managing Director
Tamil Nadu State Transport Corporation Limited
Villupuram. ... Appellant /3rd Respondent

Vs

- 1.Mayandhi ...Ist respondent/Claimant
- 2.Panneer Pandian ...2nd respondent/Ist respondent
- 3.The New India Assurance Co.Ltd.
No.2, B.R.Complex
Woods Road, Anna Salai,
Chennai-600 002. ...3rd Respondent/2nd respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 04.02.2009 made in MCOP No.444 of 2005 on the file of the Motor Vehicles Accidents Claims Tribunal, Villupuram.

For Appellant : Mr.S.V.Vasanthakumar
For Respondent : Not ready in notice R1 to R3

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.1,00,000/- towards compensation to the first respondent, due to the injuries suffered by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 12.04.2005 at about 09.20 hours, the first respondent was driving the mini van bearing Reg.No.TN-38-B-6610 belonging to the second respondent and insured with the third respondent Insurance Company from North to South direction, near Saram, Pondicherry. At that time, the driver of the bus bearing Reg. No.TN-32-N-2057 belonging to the appellant Transport Corporation drove the bus in front of the mini van and

stopped the bus suddenly. Due to the sudden stoppage of the bus, the mini van dashed against the bus and in the said impact, the first respondent sustained grievous injuries. The first respondent filed a claim petition before the Tribunal, claiming a sum of Rs.1,50,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,00,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the Tribunal has erroneously passed the award even after observing that First Information Report has been filed against the claimant and the accident had occurred due to his negligence. It is also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

6.It is seen that batta with petition due in respect of the third respondent. The appellant Transport Corporation has not taken proper steps to serve papers to the respondents, even at this length of time.

7.Considering Ex.P1-First Information Report and Ex.P2-Motor Vehicle Inspection Report coupled with the evidence of P.W.1-Claimant, the Tribunal came to the conclusion 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. This Court is not inclined to interfere with the said finding.

8.In respect of the quantum of compensation, the Tribunal has awarded a sum of Rs.11,000/- towards injuries, Rs.3,000/- towards loss of income, Rs.1,000/- towards transport expenses, Rs.10,000/- towards extra nourishment, Rs.10,000/- towards medical expenses, Rs.20,000/- towards pain and suffering, Rs.30,000/- towards disability and Rs.15,000/- towards loss of earning capacity. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above heads and hence the same need not be interfered with by this Court.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Transport Corporation is directed to deposit the award amount with interest, as ordered by the Tribunal, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

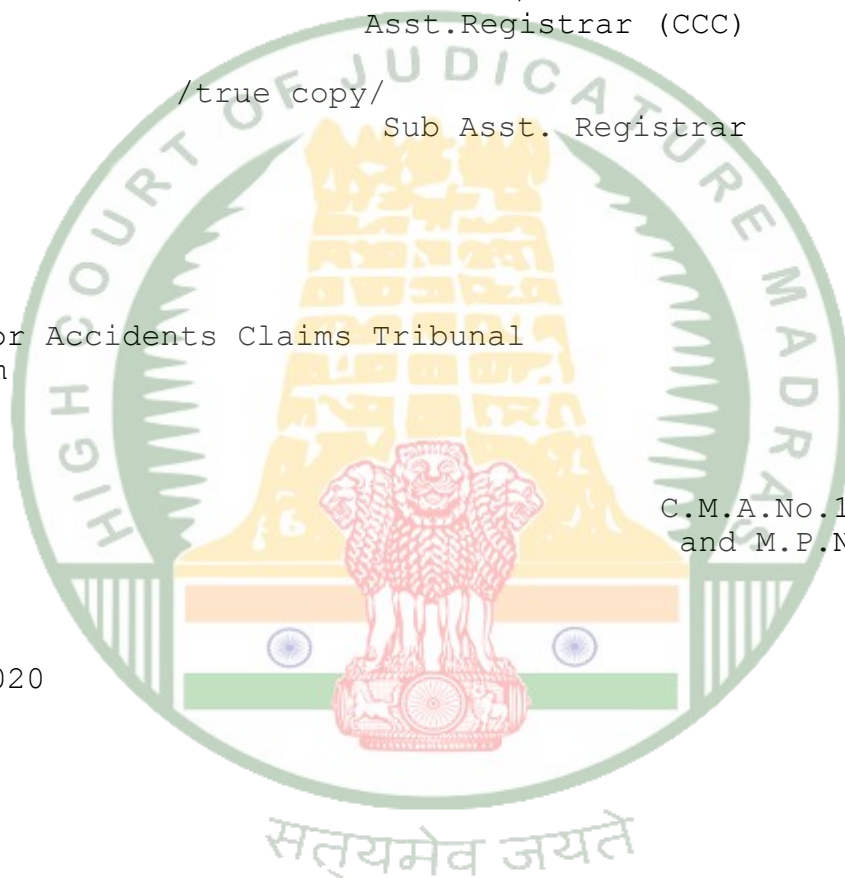
KM

To

1.The Motor Accidents Claims Tribunal
Villupuram

C.M.A.No.1600 of 2017
and M.P.No.1 of 2009

vd(co)
aa18/03/2020



WEB COPY