

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2019

CORAM:

THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

C.M.A.No.2240 of 2018
and
C.M.P.No.17212 of 2018

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

Vs

P.Selvam ...Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against decree and judgment in M.C.O.P.No.616 of 2011 dated 13.02.2014 on the file of the Motor Accident Claims Tribunal, first Additional Subordinate Judge, Cuddalore.

For Appellant : Mr.D.Venkatachalam

For Respondents: No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred against the judgment and decree made in M.C.O.P.No.616 of 2011 dated 13.02.2014 on the file of the Motor Accident Claims Tribunal, first Additional Subordinate Judge, Cuddalore.

2. The brief case leading to the claim petition is that on 21.09.2010 at about 8.10 p.m., when the respondent/claimant was riding his motor cycle bearing registration No.TN.07-4530 from South to North direction at his extreme left hand side of the Kacheri Road, at Sirkazhi, the appellant/ Corporation bus bearing registration No. TN-49-N-1571 T.N.S.T.C., came in the same direction in a rash and negligent manner, without following the traffic rules and regulations and dashed against the respondent/claimant. Due to the accident, the respondent/claimant has sustained grievous injuries and multiple

fracture of all over the body and head. So, the petitioner estimates Rs.25,00,000/- as total loss for his permanent disability, pain and sufferings, mental shock and agony, loss of earning power and capacity, loss of valuables, loss of expectation of life and for the medical and other incidental expenditure arise.

3.Challenging the same, the appellant/Transport Corporation has preferred this appeal.

4.The learned counsel appearing for the appellant/Transport Corporation contended that the injured suddenly crossed the road at the time of the accident and invited the accident. It is also observed that the rider of the said motor cycle itself is the reason for the said accident. Apart from that, the sum claimed by the respondent/claimant is excessive in the absence of any document and proof.

5.The Tribunal after analysing the evidence and document has given finding that the accident occurred due to the rash and negligent driving by the driver of the bus. Due to the accident the driver also sustained injuries. Hence, the negligence fixed on the part of the driver of the bus. While determining the compensation, the Tribunal has assessed the nature of injuries, medical expenses and disability sustained by him awarded a sum of Rs.3,73,185/- under the following heads:

S.No	Head	Compensation (in.Rs.)
1.	Transport expenses	10,000/-
2.	Permanent disability	1,10,000/-
2.	Extra nourishment	10,000/-
3.	Damages for clothes and articles	2,000/-
4.	Attender's Charges	2,000/-
5.	As per Ex.P8 Medical Expenses	1,39,185/-
6.	For Pain and sufferings	50,000/-
7.	Loss of amenities and enjoyment in life	5,000/-
Total		Rs.3,73,185/-

6.The learned counsel for the respondent/claimant stated that since the accident occurred due to the negligence on the part of the driver of the appellant/Transport Corporation bus, the sum awarded by the Tribunal is a reasonable one. The monthly

income of the respondent/claimant is Mechanic Cum Owner, and he was earning sum of Rs.30,000/- per month. This aspect was properly considered by the Tribunal. The nature of injuries, method of treatment and the disability sustained by him were properly considered.

7. On perusal of the materials available on record it is seen that the respondent/claimant sustained grievous injuries. Due to the accident, he could not do his work as before. Ex.P3/Accident Register, Ex.P4/Discharge summaries and Ex.P5/Wound certificate also reveals the fact that, he sustained fracture in his second metatarsal joint left side, Necrotizing facitis of the right inner thigh and he was taken treatment at Government Hospital, Sirkazhi and private Hospital. In view of the above it is clear that due to the said accident, he could not do his work as before.

8. As far as quantum of compensation is concerned, the tribunal by considering the disability assessed by P.W.2/doctor at 55% based on Ex.P4/Discharge Summaries, Ex.P6/wound certificates and Ex.P11/Disability Certificate and the nature of injuries, has determined the disability of the injured at Rs.1,10,000/- at the rate of Rs.2,000/- per percentage. Further the sum awarded under other heads i.e., Rs.10,000/- towards transportation, Rs.10,000/- toward extra nourishment, Rs.2,000/- towards damage to clothing and article, Rs.2,000/- towards attendant's charge, Rs.1,39,185/- towards medical expenses based on Ex.P8, Rs.50,000/- towards pain and sufferings and Rs.50,000/- towards loss of amenities and enjoyment in life are just and reasonable and hence, this Court is not inclined to interfere with the award of the Tribunal.

9. In the result, the award passed by the tribunal in M.C.O.P.No.616 of 2011 is confirmed. This Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10. The appellant/Tamil Nadu Transport Corporation shall deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the deposited amount to the Savings Bank Account of the claimant, forthwith, through RTGS.
tta

Sd/-
Assistant Registrar(C.O)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal,
First Additional Subordinate Judge,
Cuddalore.

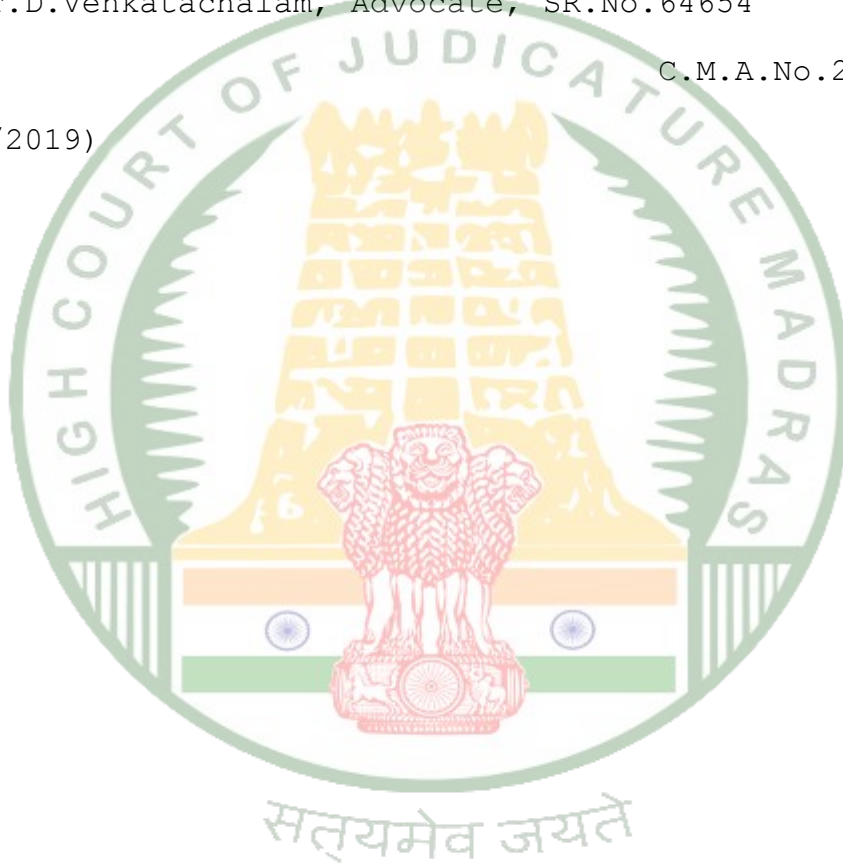
Copy to:-

The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.D.Venkatachalam, Advocate, SR.No.64654

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Kak(07/08/2019)



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