

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1427 of 2010
and M.P.No.1 of 2010

(Through Video Conferencing)

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Erode. Appellant/1st Respondent

.vs.

1.C.Thangavel1st Respondent/Petitioner
2.M.K.Loganathan(Given up)
3.The New India Assurance Company Ltd.,
12, New Hospital Road,
Gobi 638 462. Respondents 2 & 3/Respondents 2 & 3

Prayer.: This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 06.01.2010 made in M.C.O.P.No.141 of 2009 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate) Erode.

For Appellant : Mr.A.Sundravdhanan

For R1 : M/s.S.Kaithamalaikumaran

J U D G M E N T

The State Transport Corporation is the appellant in this appeal. It is aggrieved by the impugned judgment and decree dated 06.01.2010 passed by the Motor Accident Claims Tribunal, (Chief Judicial Magistrate) Erode in M.C.O.P.No.141 of 2009 (hereinafter referred to as the Tribunal)

2. By the impugned judgment and decree, the Tribunal has awarded a total sum of Rs.2,97,450/- as compensation together with interest at 7.5% p.a from the date of claim petition till the date of deposit, to the 1st respondent/claimant.

3. The 1st respondent was the claimant before the Tribunal. He met with an accident which took place on 29.02.2008 at about 9.20 a.m. The 1st respondent was standing in a bicycle, behind the lorry bearing Reg.No.TN-28-W-3585 at northern side of the Uttukuli R.S. Railway gate. While the gate was opening, the driver of the TNSTC bus bearing Reg.No.TN.33-N-1571 apparently drove it in a rash and negligent manner without observing traffic rules and moved the bus and hit the 1st respondent and the back side of the lorry, as a result of which, the 1st respondent sustained grievous injuries.

4. The Tribunal after considering the pleadings, oral and documentary evidence, held that the accident was due to rash and negligent driving of the bus by the driver of the appellant-State Transport Corporation. It therefore directed the appellant - State Transport Corporation to pay a sum of Rs.2,97,450/- as compensation to the 1st respondent-claimant.

5. Aggrieved by the impugned order, the Appellant-State Transport Corporation has filed the present appeal.

6. The learned counsel for the appellant - State Transport Corporation submitted that the accident occurred only due to the negligence of the lorry. He submitted that the Tribunal failed to note that the claimant was standing in his bicycle between the bus and lorry and had taken the cycle hurriedly in front of the lorry and hit against the lorry. He has further submitted that the Tribunal erred in awarding the aforesaid compensation to pay to the 1st respondent. Hence he prayed for setting aside the impugned order of the Tribunal.

7. The learned counsel for the 1st respondent-claimant submitted that the Tribunal has awarded just compensation to the respondent-claimant. He submits that the Impugned Judgment and decree was well reasoned and requires no interference. Therefore he prayed for dismissal of this appeal.

8. I have gone through the impugned order passed by the Tribunal and also perused the material evidence available on record.

9. Considering the nature of injuries suffered by the 1st respondent-claimant, there is no infirmity in the impugned order passed by the Tribunal and is hereby confirmed.

10. It is mentioned by the learned counsel for the appellant/State Transport Corporation that the entire award amount has already been deposited along with interest before the

Tribunal. Same stands recorded. The 1st respondent/claimant is therefore permitted to withdraw the award amount along with proportionate interest and costs, less any amount already withdrawn, by filing suitable application before the Tribunal.

11. Accordingly, this civil miscellaneous appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

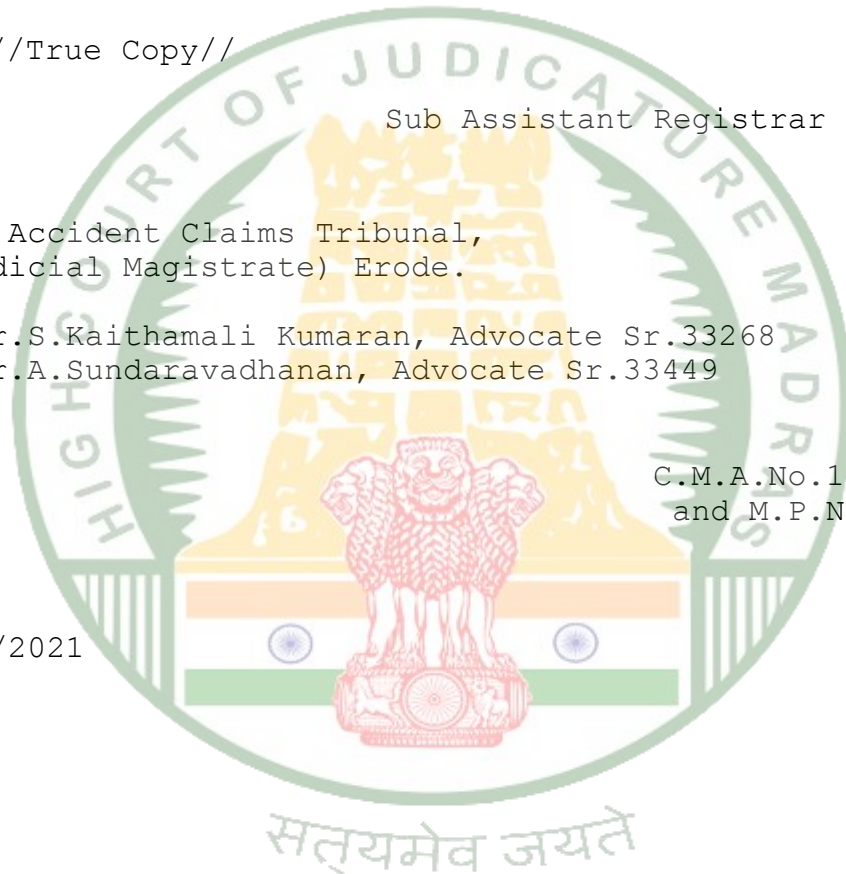
To:

The Motor Accident Claims Tribunal,
(Chief Judicial Magistrate) Erode.

+1cc to Mr.S.Kaithamali Kumaran, Advocate Sr.33268
+1cc to Mr.A.Sundaravadhanan, Advocate Sr.33449

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