

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED.22.09.2020
CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.3345 of 2009 &
M.P.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division II, Chennimalai Road, Erode. ... Appellant

vs.

Paramasivam ...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award made in MCOP.No.628 of 2004 dated 20.01.2009 on the file of the Motor Accident Claims Tribunal and Additional District Judge, FTC No.5, Coimbatore at Tiruppur.

For Appellant : Mr.A.Sundaravadhanan
For Respondent : Incorrect address

JUDGMENT

[This Appeal has been taken up for hearing through Video Conferencing]

This Appeal has been filed by the Appellant Transport Corporation challenging the award dated 20.01.2009 passed by the Motor Accident Claims Tribunal (Additional District Judge, FTC No.5, Coimbatore at Tiruppur) in MCOP.No.628 of 2004.

2. Heard Mr.A.Sundaravadhanam, learned counsel for the Appellant. The notice sent to the respondent has been returned with the endorsement ?incorrect address?. Since this Court is going to confirm the award, notice to the respondent is dispensed with.

3. The Tribunal under the impugned award directed the Appellant Transport Corporation to pay the respondent a compensation of Rs.86,515/- together with interest and costs as detailed below:

Heads	Award Amount (Rs.)
Disability compensation	60,000/- (30 x 2000)
Medical expenses	515/-

Pain and suffering	20,000/-
Extra nourishment	2,000/-
Transport expenses	1,000/-
Loss of income during the period of treatment	3,000/-
Total	86,515/-

4. The Appellant Transport Corporation has challenged the impugned award on the following grounds namely (a) The Tribunal has erroneously held the driver of the bus owned by the Appellant Transport Corporation responsible for the cause of the accident and (b) the quantum of compensation awarded by the Tribunal is excessive.

5. Before the Tribunal, the respondent/claimant has filed seven documents which were marked as Ex.A1 to Ex.A7 and three witnesses were examined namely the respondent/claimant himself as PW1, the Doctor who examined him as PW2 and an eyewitness to the accident as PW3. On the side of the Appellant Transport Corporation, neither any document was filed nor any witness examined.

6. Admittedly, (Ex.A1) FIR has been registered only against the driver of the bus owned by the Appellant Transport Corporation. Subsequently, the charge sheet has also been filed by the police against the driver of the bus in Cr.No.163 of 2004. As per (Ex.A2) MVI report, damages have been found in the front portion of the bus owned by the Appellant/Transport Corporation. It was the case of the claimants that the bus due to the rash and negligent driving by its driver came from behind and dashed against the motorcycle in which the respondent was a pillion rider. In view of the FIR as well as the MVI report which will clearly reveal that it was the driver of the bus who was responsible for the cause of the accident, the Tribunal has rightly held the Appellant Transport Corporation liable to pay compensation to the respondent.

7. With regard to the second contention raised by the Appellant/Transport Corporation that the quantum of compensation awarded by the Tribunal is excessive is concerned, the same has to be necessarily rejected by this Court for the following reasons:

(a) The accident happened in the year 2004. The respondent in his claim petition had claimed that he was a Hotel master aged 25 years and earning Rs.4,000/- per month at the time of the accident. Since no documentary evidence has been produced by the respondent/claimant before the Tribunal to prove his income, the Tribunal has fixed the disability compensation based on the

disability certificate (Ex.A6) issued by the Doctor (PW2). As per the disability certificate, the functional disability of the respondent was fixed at 30% and disability compensation of Rs.60,000/- was awarded to the respondent calculated at Rs.2,000/- per percentage of disability. As seen from the disability certificate as well as the claim petition, the respondent had sustained the following injuries namely fracture at left side occipital bone, loss of right eye, right knee and injuries all over his body as a result of the accident. Considering the nature of injuries sustained by the respondent, the assessment of disability compensation by the Tribunal at Rs.60,000/- cannot be considered to be excessive as alleged by the Appellant.

(b) The Tribunal has also awarded Rs.20,000/- towards pain and suffering, Rs.2,000/- towards extra nourishment, Rs.1,000/- towards transportation charges, Rs.3,000/- for loss of income during the period of treatment, Rs.515/- towards medical expenses and in all put together a total compensation of Rs.86,515/- has been awarded by the Tribunal as compensation to the respondent. This Court is of the considered view that the said compensation cannot be considered to be excessive as alleged by the Appellant.

Conclusion:

8. For the foregoing reasons, there is no merit in this Appeal. Accordingly, this Appeal is dismissed. However, the rate of interest fixed by the Tribunal at 7.5% per annum is confirmed. The Appellant Transport Corporation is directed to deposit the amount awarded by the Tribunal along with interest from the date of claim till the date of deposit and costs after deducting the amount already deposited if any to the credit of MCOP.No.628 of 2004 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 award amount along with accrued interest lying to the credit of MCOP.No.628 of 2004 to the bank account of the respondent/claimant through RTGS within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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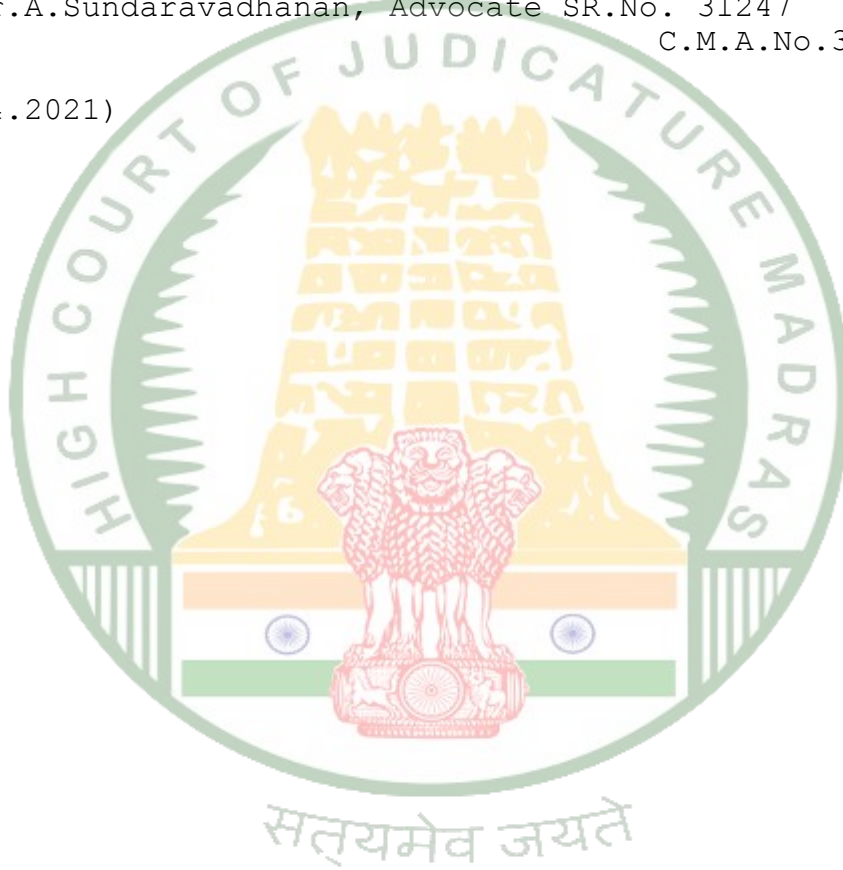
To

1.The Additional District Judge,
Motor Accident Claims Tribunal,
FTC No.5, Coimbatore at Tiruppur.

Copy to:
The Section Officer,
VR Section, High Court,
Chennai.

+1cc to Mr.A.Sundaravadhanan, Advocate SR.No. 31247
C.M.A.No.3345 of 2009

A.SK(19.04.2021)



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