

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED.22.09.2020

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.987 of 2010 &
M.P.No.1 of 2010

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Dharmapuri, Bharathipuram,
Salem Main Road, Dharmapuri ... Appellant/Respondent

Vs.

Thimmarayappa ...Respondent/Claimant

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree passed on 14.07.2006 in MCOP.No.298 of 2005 on the file of the Motor Accident Claims Tribunal (Additional District Judge, Dharmapuri).

For Appellant : Mr.D.Raghu

For Respondent : Refused

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 14.07.2006 passed by the Motor Accident Claims Tribunal (Additional District Judge, Dharmapuri) in MCOP.No.298 of 2005.

2. Heard Mr.D.Raghu, learned counsel for the Appellant. The notice sent to the respondent has returned with the endorsement "refused". 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.1,39,529/- together with interest and costs for the injuries sustained by him as a result of an accident caused by a bus owned by the Appellant Transport Corporation.

4. The details of the compensation awarded by the Tribunal under the impugned award are as follows:

Heads	Award Amount (Rs.)
Transportation charge	2,500/-
Extra nourishment	2,500/-
Pain and suffering	15,000/-
Medical expenses	5,029/-
Disability certificate	45,000/-
Attender charges	2,000/-
Loss of future income	67,500/-
Total	1,39,529/-

5. 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.

6. Before the Tribunal, the respondent/claimant has filed seven documents which were marked as Ex.A1 to Ex.A7 and two witnesses were examined namely the respondent/claimant himself as PW1 and the Doctor who examined him as PW2. On the side of the Appellant Transport Corporation, no document was filed but one witness was examined as RW1.

7. Insofar as the first contention raised by the Appellant questioning its liability is concerned, the Tribunal has rightly held the Appellant Transport Corporation liable to compensate the claim for the reason that FIR (Ex.A1) has been registered only against the driver of the bus. No contra evidence has been produced by the Appellant Transport Corporation before the Tribunal to disprove the contention of the respondent/claimant that the driver of the bus was alone responsible for the cause of the accident. Based on preponderance of probability, the Tribunal has rightly held the driver of the bus responsible for the cause of the accident. Therefore, the first contention raised by the Appellant Transport Corporation is rejected.

8. Insofar as 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 respondent sustained the injuries namely spiral fracture of right Tibia junction of lower 1/3rd and middle 1/3rd, fracture of lower and of Fibula right leg, fracture of right medial malleolus, fracture of right leg foot 4th and 5th metatarsal bone, grievous injury to right frontal bone, injury to chest, and multiple injuries all over his body as a result of the accident caused by a bus owned by the Appellant Transport Corporation.

(b) The disability certificate Ex.A6 issued by the Doctor (PW2) will reveal that the respondent suffered 45% disability as a result of the accident which happened on 25.02.2005. The Tribunal has awarded Rs.45,000/- as disability compensation to the respondent calculated at Rs.1,000/- per percentage of disability. Considering the nature of injuries sustained by the respondent, this Court is of the considered view that the disability compensation awarded by the Tribunal is correct.

(c) The Tribunal has also awarded a compensation of Rs.15,000/- towards pain and suffering, Rs.5,029/- towards medical expenses, Rs.2,500/- towards extra nourishment, Rs.2,500/- towards transportation charges, Rs.2,000/- towards attender charges, Rs.67,500/- towards loss of future earning power which in the considered by this Court cannot be considered to be excessive as alleged by the Appellant Transport Corporation. After giving due consideration to the age and avocation of the respondent as well as the injuries sustained by the respondent, the compensation awarded by the Tribunal under the aforementioned heads cannot be considered to be excessive. Hence the second contention raised by the Appellant is also rejected.

Conclusion:

9. 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.298 of 2005 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.

Sd/-

Assistant Registrar (CS-IX)

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Sub Assistant Registrar

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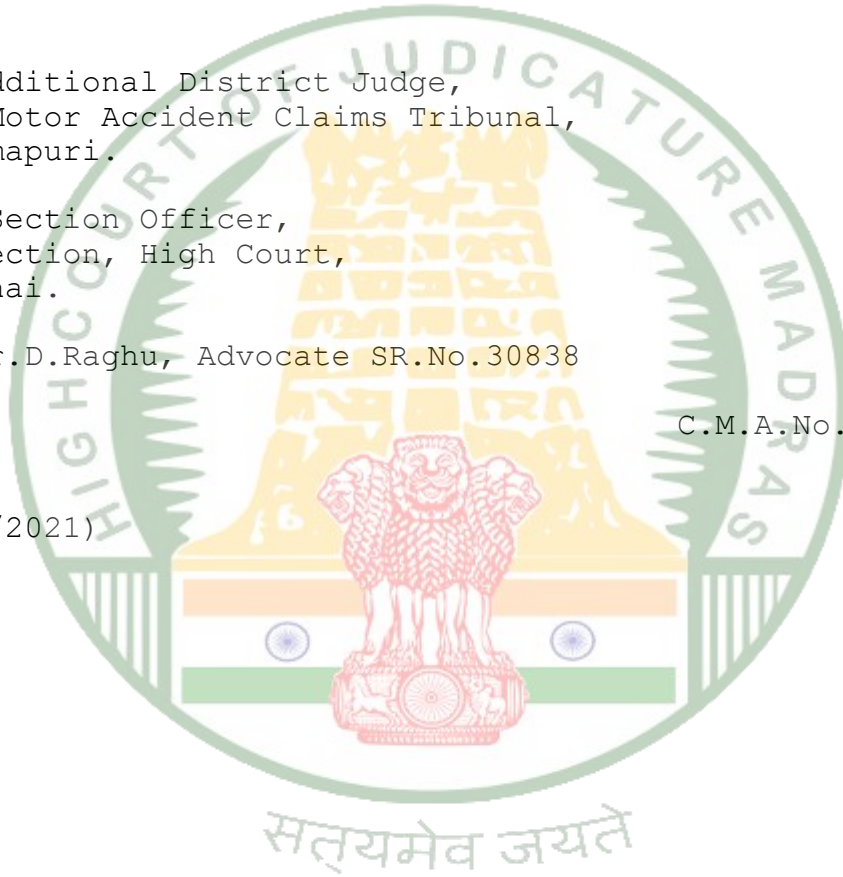
To

- 1) The Additional District Judge,
The Motor Accident Claims Tribunal,
Dharmapuri.
- 2) The Section Officer,
VR Section, High Court,
Chennai.

+1cc to Mr.D.Raghu, Advocate SR.No.30838

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VBA (CO)
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