

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2404 of 2015

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport,
Corporation (Kumbakonam) Limited,
Periya Melakuparai, Trichy. ..Appellant/ 2nd Respondent

Vs.

1.V.G.Mahalakshmi
2.P.N.Karunanidhi
3.C.Karthikeyan
4.V.P.Raghuraman
5.United India Assurance Company Limited,
Having Office at No.5,
Periyakadai Veethi, Dharapuram. ...Respondents/ claimants and
Respondents 1,3,4,5

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment & Decree dated 28.03.2014 passed in M.C.O.P.No.316 of 2010 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Udumalaipettai.

For Petitioner : Mr.D.Venkatachalam

For Respondents : Mr.R.S.Panidayaraj for R1
RR2 to 5- not ready in notice

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the judgment and decree dated 28.03.2014 passed in M.C.O.P.No.316 of 2010 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Udumalaipettai.

2. The accident occurred on 29.04.2010 at about 15.30 hrs in Oddanchattram to Dindigul main road at Puduchattram Opposite to TASMACH Shop and Oddanchattram Police Station registered a case in Crime No.248/2010 dated 29.04.2010. The accident occurred on account of negligence committed by the driver of the Transport

Corporation Bus as well as the Mini Door Van which was coming opposite side. There was a head on collision between the Transport Corporation and the Mini Door Van. Thus, the claimant sustained injury and was taking treatment in the hospital. The nature of the injuries sustained by the claimant were that LL Clavicle, LL Hip Contusion which was found as bone crack, Crack in the left collar bone.

3. The claimant was treated as in-patient and it was brought to the notice of this Court that at the time of accident, she was pregnant and therefore, she had to take further treatment and undergo a surgery for the purpose of removing the child.

4. This being the factum, the Tribunal considered all the facts and circumstances as well as the nature of injuries and subsequent surgery undergone by the claimant and relied on the discharge summary and the evidence of other witnesses who are all deposed that accident occurred on account of the lapse and negligent driving of the transport Corporation driver as well as auto mini door van. Both these drivers had committed an act of negligence and therefore, the tribunal has fixed the compensation of 60% on the Transport Corporation and 40% on the Mini Door Van. A perusal of the entire award reveals that the facts and circumstances and documents as well as the evidence produced by the parties are considered by the Tribunal and therefore, there is no infirmity as such.

5. This Court is of the considered opinion that when no negligence are otherwise, has been established in respect of both drivers, then the award deserves no further interference and accordingly, the judgment and decree passed by the tribunal in M.C.O.P.No.316 of 2010 dated 28.03.2014 is confirmed and consequently, the civil miscellaneous appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssb

To

The Motor Accidents Claims Tribunal,
Subordinate Judge, Udumalaipettai.

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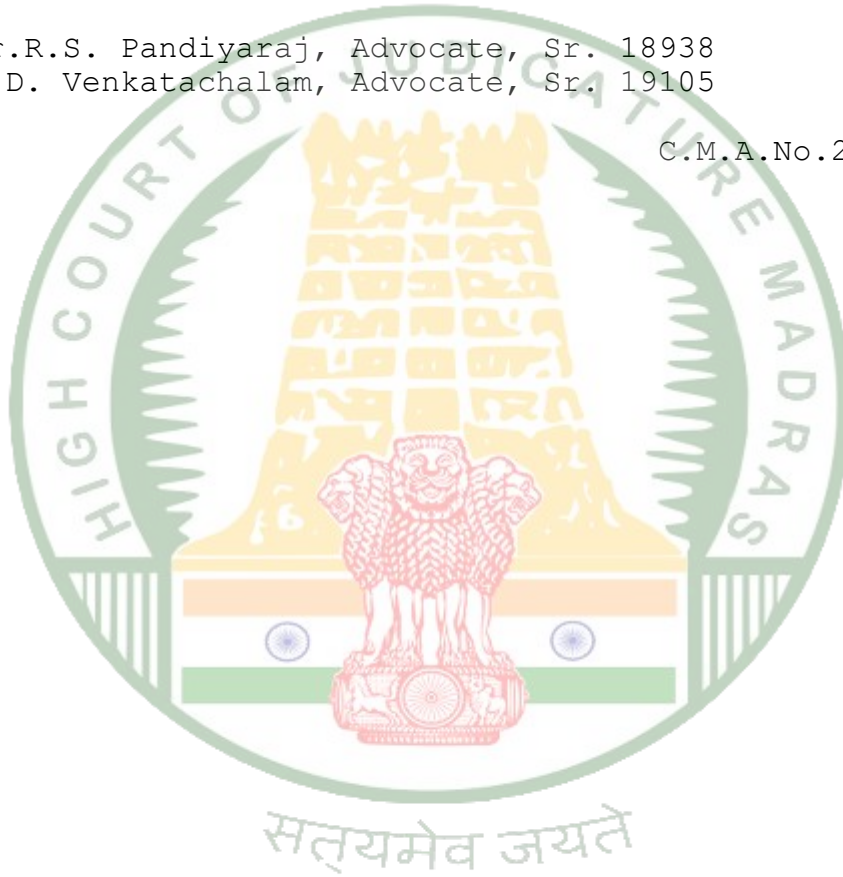
The Section Officer
VR Section
High Court, Madras

1 cc to Mr.R.S. Pandiyaraj, Advocate, Sr. 18938

1 cc t Mr.D. Venkatachalam, Advocate, Sr. 19105

C.M.A.No.2404 of 2015

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