

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2559 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Villupuram,
Vellore Region.

..Appellant/Respondent

Vs.

M.Suresh

..Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 59 of 1988, against the judgment and decree dated 17.04.2015 made in M.C.O.P.No.3501 of 2010 on the file of Motor Accident Claims Tribunal, (VI Small Causes Court), Chennai and praying to set aside the same.

For Appellant : Mr.S.Sairaman

For Respondent : Not Ready in Notice

J U D G M E N T

The Civil Miscellaneous Appeal is filed against the judgment and decree dated 17.04.2015 made in M.C.O.P.No.3501 of 2010 on the file of Motor Accident Claims Tribunal, (VI Small Causes Court), Chennai.

2. The Tamil Nadu State Transport Corporation, Villupuram Region, filed the present appeal, mainly on the ground that the Driver of the Corporation Bus was proceeding in the bus slowly and cautiously at the time of accident and therefore, the Driver of the Transport Corporation Bus had not committed any act of negligence or otherwise.

3. The Tribunal had committed an error in relying upon the evidence of the Claimant's side in respect of the negligence and the witness, who deposed is the interested witness and under those circumstances, the Tribunal ought not to have trusted upon

the interested witness for the purpose of granting higher compensation. The Tribunal has not considered the grounds raised by the Transport Corporation in the right perspective. The evidences of P.W.1 and P.W.2 was erroneously considered for the purpose of considering the huge compensation. Thus, the award is liable to be set aside.

4. The accident occurred on 16.06.2010 at about 9.45 pm. When the claimant was driving in his TVS 50 XL Motor cycle bearing Regn.No.TN25-S-9517 from JJ Nagar to Vinayapuram, Kancheepuram Taluk and while so, he was nearing JJ Nagar Bus stop. At that time, the Transport Corporation bus bearing Regn.No.TN23-N-2083, came from Kancheepuram to Vellore direction and the driver was driven the bus in a rash and negligent manner, endangering to the public safety and hit against the claimant's vehicle and the claimant sustained grievous injury.

5. The Tribunal considered the issues, whether the claimant sustained injuries due to the rash and negligent driving of the Transport Corporation Bus and the claimant is entitled for compensation. The Tribunal considered the evidences as well as the documents filed by the respective parties. The claimant, at the time of accident, was aged about 21 years and sustained multiple injuries over his body. There was no delay in filing registering FIR as well as the documents produced by the claimant revealed that the claimant sustained injuries.

6. Considering these documents, the Tribunal arrived a conclusion that there was no fault on the part of the claimant and contributory negligence was not established and therefore, the liability is to be fixed on the Bus Driver and accordingly, held that the Bus Driver has committed the act of negligence. As far as the other issues are concerned, the Tribunal considered the quantum of compensation based on medical records and by calculating the disability. The income was also considered and the perusal of the entire award reveals that the Tribunal has considered the documents filed by the respective parties and fixed the compensation by following the procedures. The total compensation fixed by the Tribunal is Rs.3,60,400/- (Rupees Three Lakh Sixty Thousand and Four Hundred only). The claimant sustained multiple grievous injuries all over the body. Therefore, the medical expenses awarded is in accordance with the medical records and there is no error.

7. Under these circumstances, this Court do not find any perversity or error in respect of fixing the compensation and consequently, the award passed by the Motor Accident Claims Tribunal in M.C.O.P.No.3501 of 2010 stands confirmed. Consequently, C.M.A.No.2559 of 2015 stands dismissed.

8. The appellant / Tamil Nadu State Transport Corporation, Villupuram Region, is directed to settle the entire compensation to the respondent/claimant with accrued interest within a period of three months from the date of receipt of a copy of this judgment and on such deposit, the respondent/claimant is permitted to withdraw the entire compensation amount with accrued interest by filing an appropriate application and the payments are to be made through RTGS.

9. No costs. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

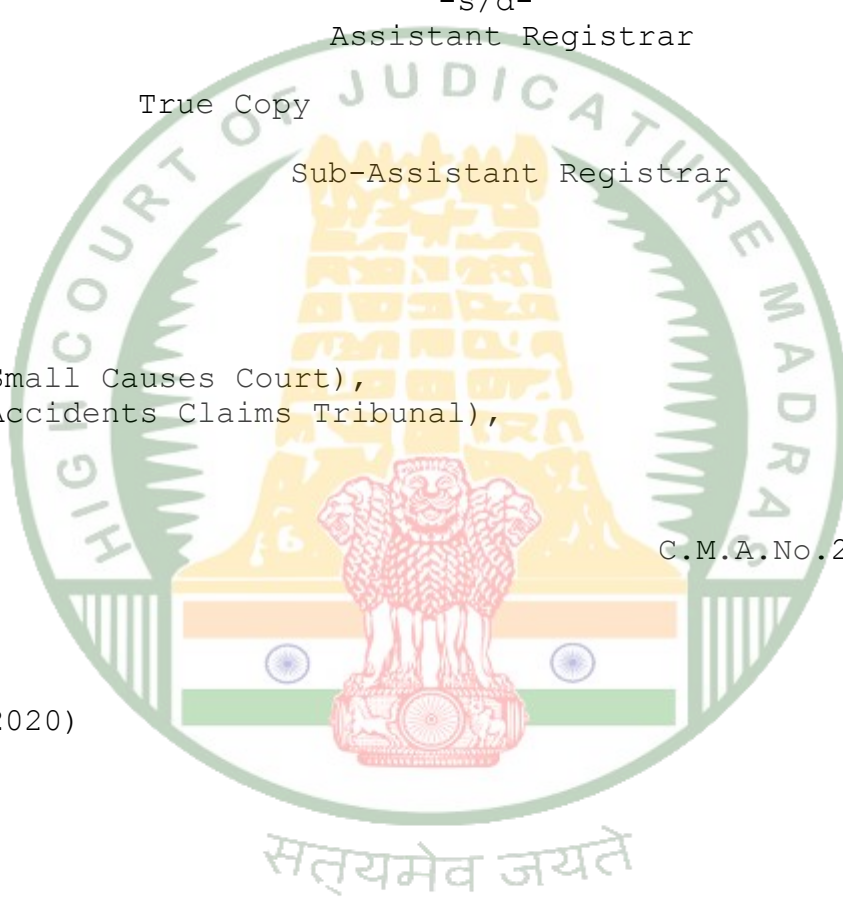
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To

1.The VI Small Causes Court),
(Motor Accidents Claims Tribunal),
Chennai.

C.M.A.No.2559 of 2015

PVS (CO)
SP (29/10/2020)



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