

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2983 of 2012
and
M.P.No.1 of 2012

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam.

... Appellant/1st Respondent

Vs.

1.Balaji ...1st Respondent/petitioner
2. R.Sundharam(given up)
(set exparte before the Tribunal)..2nd Respondent/2nd Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Decree and Judgment in M.A.C.T.O.P.No.1144 of 2003 dated 24.12.2008 passed by the Motor Accident Claims Tribunal cum Additional District and Sessions Court (Fast Track Court No.1) Chidambaram.

For Appellant : Mr.N. Anand

For R1 : Mr.T. Gopinath

JUDGMENT

The Civil Miscellaneous Appeal is filed by the appellant/Transport Corporation against the Decree and Judgment in M.A.C.T.O.P.No.1144 of 2003 dated 24.12.2008 passed by the Motor Accident Claims Tribunal cum Additional District and Sessions Court (Fast Track Court No.1) Chidambaram.

2.The case of the claimant is that at on 28.04.2002 at about 5.45 p.m he was proceeding in his two wheeler and one Damodharam was accompanying him as pillion rider. When he was proceeding in Sirkali Main road the respondent bus bearing Registration No.T.N.49.N.0870 came in the opposite direction and

hit the two wheeler of the appellant. Due to the impact, the appellant sustained grievous injuries in his right leg and the bones in the right leg was broken. In spite of better treatment his left leg got amputated. Hence, he filed a claim petition before the Tribunal seeking Rs.13,00,000/- as compensation. The Tribunal after analyzing the materials available on record awarded Rs.8,24,431/- as compensation with 7.5% p.a from the date of petition till the date of realization.

3.Challenging the award passed by the Tribunal, the appellant has come up with this present appeal.

4.The learned counsel for the appellant submitted that the Tribunal awarded meager amount as compensation. He would further contend that as his right leg was amputated his health condition was affected and he was not able to concentrate on his work as before. Hence, prays to enhance the compensation.

5.The learned Counsel for the Respondent/Transport Corporation submitted that the Tribunal has awarded a reasonable amount as compensation and there is no necessary to interfere with the findings of the Tribunal.

6.Heard the learned counsel for the appellant and the respondents and perused the materials available on record.

7.With regard to negligence aspect P.W.1/appellant deposed before the Tribunal, that the accident occurred due to the negligence aspect on the part of the driver of the bus and Ex.P.1/F.I.R also reveals the same. Hence, based on the available materials on record the Tribunal concluded that the negligence exists on the part of the driver of the bus. Hence, this Court is not inclined to interfere with the same and the same is confirmed as such.

8. With regard to quantum of compensation arrived by the Tribunal, based on the documentary proof regarding the income of the victim, fixed the income of the injured as Rs.6,000/- and calculated Rs.72,000/-(Rs.6,000x12) as annual income. considering the age of the deceased applied '17' as multiplier and arrived Rs.6,12,000/-(Rs.36,000 x 16) as loss of income. Ex.P.12/Disability Certificate shows that he sustained 85% as disability hence applying the same Rs.5,20,000/- (Rs.6,12,000 x 85/100) was awarded towards the head disability. Considering Exs.P.9 to 18/Medical bills the Tribunal has awarded Rs.2,63,231/- towards medical expenses. Apart from this the Tribunal has awarded Rs.5,000/- towards the head grievous injuries and Rs.36,000/- towards loss of income. Thus, in toto

awarded Rs.8,24,431/- as total compensation for the injured, which is tabulated hereunder:

S.No	Description	Amount awarded by Tribunal (Rs)
1.	Medical Expenses	2,63,231/-
2.	Disability	5,20,000/-
3.	Grievous injuries	5,000/-
4.	Loss of income	36,000/-
	Total	Rs.8,24,431/-

9.This Court is of the view that the amount awarded by the Tribunal under the above heads are very reasonable, weightage of evidence, probabilities of case and settled principles of law and hence the same are confirmed.

10.Thus, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal stands dismissed. No costs. The appellant/Transport Corporation is directed to deposit the compensation amount within a period of 8 weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant is permitted to withdraw the entire award amount along with interest and costs, less the amount already withdrawn. Consequently connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

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Sub-Assistant Registrar

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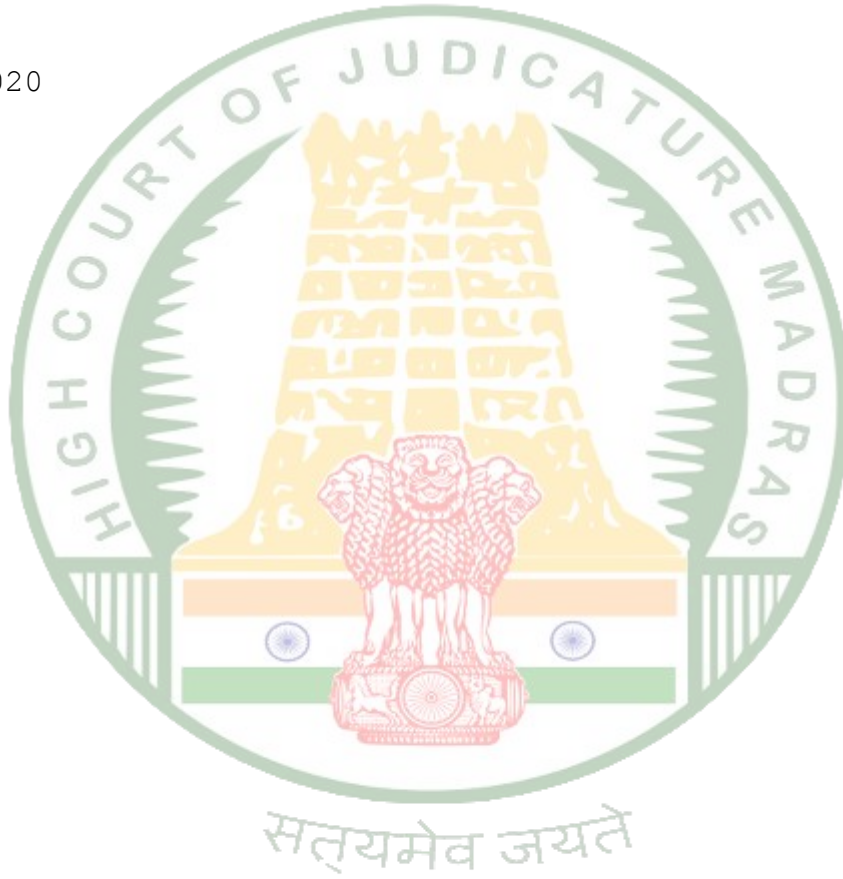
1. The Additional District and Sessions Court,
Fast Track Court No.1, Chidambaram

2.The Section Officer,
V.R Section,
High Court, Madras.

+1 cc to Mr.T.Gopinath Advocate sr11963
+1 cc to Mr.N.Anand Advocate sr12559

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