

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2020

CORAM

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

C.M.A.No.2881 of 2015

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Division I, Villupuram,
3/137, Salamedu,
Vazhuthu Reddy Post. ...Appellant/Respondent

Vs.
Sivakohunudhu ...Respondent/Claimant

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment & Decree dated 17.02.2015 made in M.C.O.P.No.618 of 2010 on the file of the Motor Accident Claims Tribunal (Special Sub-Court) Cuddalore.

For appellant : Mr.K.J.Siva kumar

For Respondent : Mr.Ramaya V.Rao
for Mr.R.Sreedhar

J U D G M E N T

The Tamil Nadu State Transport Corporation Limited, Division I, Villupuram, preferred this appeal mainly on the ground that the appellant/Transport Corporation bus had not involved in the accident, more specifically, causing injury to the victim/claimant.

2. The learned counsel appearing on behalf of the appellant contended that the compensation awarded by the Tribunal is excess and not in commensuration with the gravity of the injury established before the Tribunal through documents.

3. The accident occurred on 26.12.2009 at about 08.30 p.m on the Chidambaram to Cuddalore Road near Eswaran Kula karai, Alapakkam. The injured sustained grievous injuries, more specifically, skull bones fractured, multiple fractures, multiple grievous injuries all over the body.

4. The learned counsel appearing on behalf of the respondent/claimant contended that fracture in skull bones created loss of memory and even now, the claimant is unable to recover from disability and taking treatment continuously.

5. A perusal of the entire award reveals that though the appellant has stated that the vehicle belongs to the Transport Corporation had not involved in the accident, they have not established the said factum before the Tribunal. Therefore, this Court cannot interfere with the findings of the Tribunal that the accident occurred on account of negligence committed by the driver of the Transport Corporation Bus.

6. Mere pleading to establish certain factum is insufficient. In the event of taking a vital ground regarding involvement of vehicle in the accident, then the owner of the vehicle should establish that the vehicle was no way connected with the accident. In the present case, though it is pleaded that the Transport Corporation bus had not involved in the accident, the said factum was not established by way of oral and documentary evidence before the Tribunal and therefore, this Court cannot interfere with the findings of the Tribunal in this regard.

7. As far as the quantum of compensation is concerned, the nature of the injuries sustained by the claimant is undoubtedly grievous in nature and skull bone fractured created certain permanent disability. Under these circumstances, this Court is not inclined to interfere with the findings of the Tribunal as well as the quantum of compensation awarded by the Tribunal. Thus, the award passed by the Tribunal in M.C.O.P.No.618 of 2010 dated 17.02.2015 is confirmed and the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

8. The appellant is directed to deposit the entire award amount with accrued interest, if not already deposited, within a period of six weeks from the date of receipt of a copy of this judgment and on such deposit, the respondent/claimant is permitted to withdraw the entire amount by filling appropriate application and the payments are to be made through RTGS.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssb

To
The Motor Accident Claims Tribunal
(Special Sub-Court) Cuddalore.

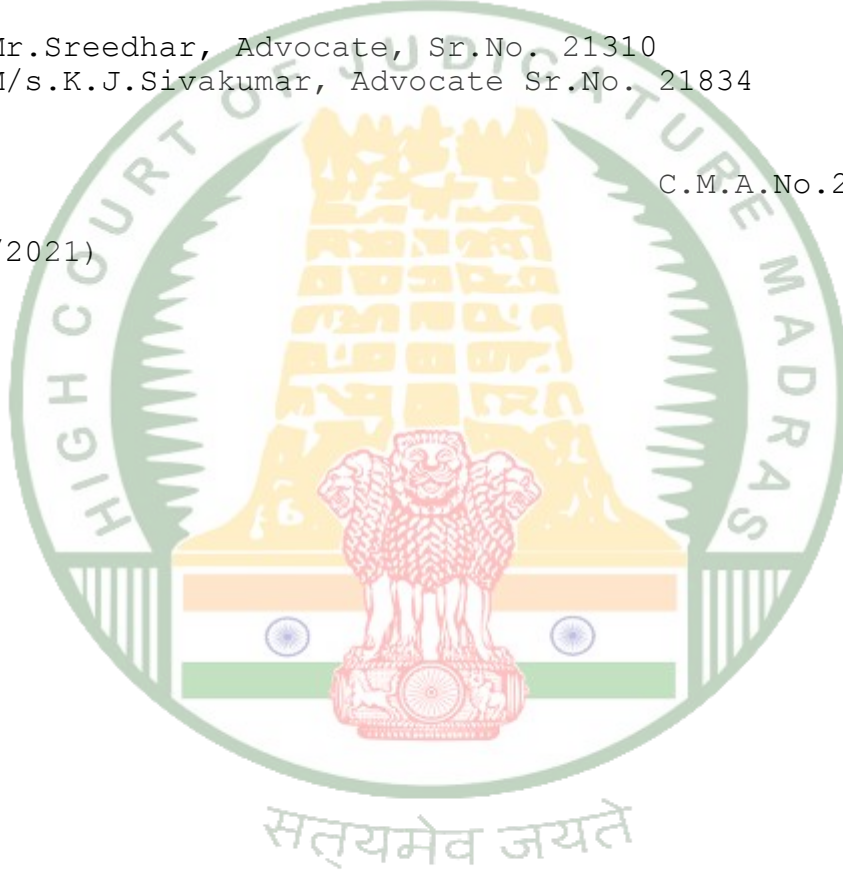
Copy to :

The Section Officer,
VR Section,
High Court Madras.

+2ccs to Mr.Sreedhar, Advocate, Sr.No. 21310
+1 cc to M/s.K.J.Sivakumar, Advocate Sr.No. 21834

C.M.A.No.2881 of 2015

SSI (CO)
RMP (11/01/2021)



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