

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2020

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A. No.1507 of 2015

And

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transportation
Corporation (Villupuram) Limited,
No.3/137, Salamedu,
Vazhuthareddy,
Villupuram-605 602. Appellant/Respondent

vs.

Rajalakshmi Respondent/Claimant

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 18.08.2014 passed in M.C.O.P. No.1450 of 2013 on the file of the learned Special Sub Judge, Special Sub Court-cum-Motor Accidents Claims Tribunal, Tirupattur.

For Appellant : Mr.K.J.Sivakumar

For Respondent : Mr.P.A.Sudesh Kumar

J U D G M E N T

The Civil Miscellaneous Appeal on hand is preferred against the judgment and decree dated 18.08.2014 passed by the learned Special Sub Judge, Special Sub Court-cum-Motor Accidents Claims Tribunal, Tirupattur in M.C.O.P. No.1450 of 2013.

2. The appellant-Tamil Nadu State Transport Corporation filed an appeal mainly on the ground that the Trial Court had not considered the evidence of PW-1, which has not been corroborated with any other independent witnesses. Mere registration of FIR against the driver of the appellant-Transport Corporation is insufficient to fix the negligence on the driver of the bus. There was no valid document filed by the

respondent-claimant either to prove her age or to establish her income. Thus, the award of a sum of Rs.5,75,663/- is exorbitant.

3. The facts in nutshell to be considered are that the petitioner was doing her business and was earning Rs.10,000/- per month. On 28.01.2011, at about 01.30 P.M., at Vellore old Bus Stand near Thiruvalluvar Statue, the bus bearing Registration No.TN-32-N-2756 was driven by the driver of the Transport Corporation in a rash and negligent manner and hit against the claimant/respondent, who was walking on the extreme left side of the road. The bus ran over her lower back and thigh and she got grievous injury on her lower back and she was sustained perennial laceration. The claimant had taken treatment at Christian Medical College Hospital, Vellore and undergone an operation on 29.01.2011 and continued as inpatient till 27.02.2011. Subsequently, the claimant was taking treatment as outpatient in the same hospital. She was completely bedridden and disabled. Under those circumstances, the claim petition was filed, seeking compensation of Rs.20 lakhs.

4. The Tribunal considered the issue whether the accident took place due to the rash and negligent driving of the Transport Corporation bus driver or the claimant fell down from the Town Bus which was proceeding to Bagayam and the claim set out in the claim petition is excessive or not. PW-1, PW-2 and PW-3 were examined and Exs.P-1 to P-38 were marked as documents on the side of the claimant. RW-1 was examined on the side of the Transport Corporation and no documentary evidence was filed.

5. With reference to the first issue, the Tribunal considered Ex.P-1 FIR which clearly revealed that the accident took place only due to the rash and negligent driving of the Transport Corporation bus driver and the claimant was not fell down from the Town Bus and accordingly the Tribunal arrived a conclusion that the accident occurred on account of the negligence committed by the driver of the Tamil Nadu State Transport Corporation. This Court do not find any error in considering the Ex.P-1 document as the facts in this regard were unable to be repudiated by the Transport Corporation. Thus, the Tribunal has rightly arrived a conclusion that the Transport Corporation bus driver had committed the act of negligence which resulted in an accident, causing grievous injuries to the claimant.

6. As far as the quantum of compensation is concerned, the Tribunal awarded a total compensation of Rs.5,75,663/- along with interest at the rate of 7% per annum from the date of claim

petition. The Tribunal considered the loss of earnings, transportation charges, medical expenses and the nature of disability etc.

7. Perusal of the findings of the Tribunal in the Award, the Tribunal has considered the medical expenses incurred by the claimant as well as the documents filed thereon. Under these circumstances, this Court do not find any perversity or error in respect of appreciation of the documents filed by the respective parties as well as the quantum of compensation awarded. The quantum of compensation awarded is just and proper.

8. Thus, this Court is not inclined to interfere with the award passed by the Motor Accident Claims Tribunal. Accordingly, the judgment and decree dated 18.08.2014 passed by the learned Special Sub-Judge, Special Sub-Court-cum-Motor Accidents Claims Tribunal, Tirupattur in MCOP No.1450 of 2013 stands confirmed and consequently, the C.M.A.No.1507 of 2015 stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

9. The appellant-Transport Corporation is directed to deposit the entire Award amount with accrued interest, if not already deposited, within a period of three months from the date of receipt of a copy of this judgment and on receipt of such deposit, the respondent/claimant is permitted to withdraw the entire award amount, after deducting the amount already withdrawn, if any, by filing appropriate application before the Tribunal and the payments are to be made only through RTGS.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

Svn

To

The Special Sub Judge,
Special Sub Court-cum-Motor Accident Claims Tribunal,
Tirupattur.

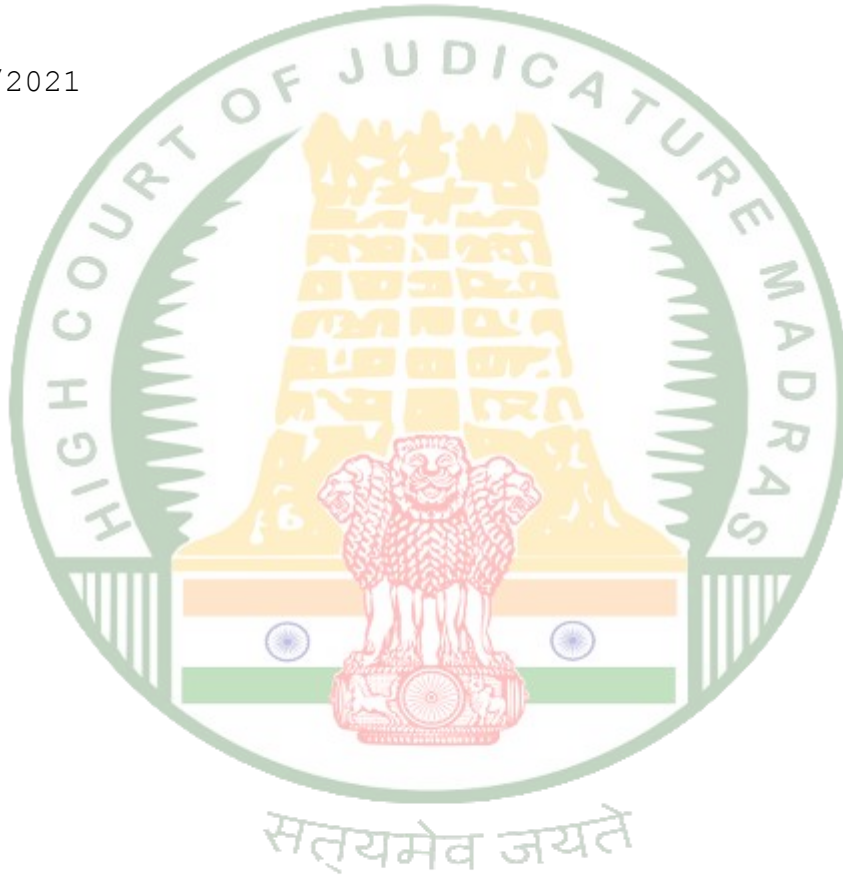
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Copy to

The Section Officer,
VR Section, High Court,
Madras.

CMA No.1507 of 2015

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