



Civil Miscellaneous Appeal No.2009 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.2009 of 2023

Kannan

... Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Tirupur, Regional Office,
Kangayam Road, Tirupur

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the award dated 15.06.2022 made in M.C.O.P.No.98 of 2016 on the file of Exclusive MACT, Tirupur.

For Appellant : Mr.Ma.P.Thangavel

For Respondents : M/s.Murali Vinoth

JUDGMENT

The claimant aggrieved by the rejection of payment of compensation and fixing a sum of Rs.25,000/- under the no fault liability



principle, has filed the present appeal against the award passed by Exclisice MACT, Tirupur in M.C.O.P.No.98 of 2016 dated 15.06.2022.

2. The case of the claimant is that on 24.10.2015, he alighted the Government bus and the bus was started in a rash and negligent manner even before the claimant got into the bus. As a result, the claimant fell down and the rear wheel ran over the legs of the claimant and he sustained crush injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the negligence on the part of the claimant and therefore, the claim made by the claimant for payment of compensation under Section 166 of the Motor Vehicles Act was rejected. However, the Tribunal has granted a sum of Rs.25,000/- under no fault liability under Section 140 of the Motor Vehicles Act. Aggrieved by the award passed by the Tribunal, the present



appeal has been filed before this Court.

4. Heard Mr.Ma.P.Thangavel, learned counsel for appellant and Mr.N.Murali Vinoth for sole respondent.

5. This Court carefully considered the submissions made on either side and the materials available on record.

6. This Court also carefully went through the award passed by the Tribunal.

7. The Tribunal has come to a conclusion that the accident had taken place only due to the negligence on the part of the claimant. To reach this conclusion, the Tribunal has heavily relied upon the FIR that was marked as Ex.P1 and also the evidence of RW1.

8. The claimant was examined as PW1. The claimant during chief examination has stated that he was waiting near Thiruppur old bus stand on 24.10.2015 in order to get into the bus which was going from



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Thiruppur to Perumanallur. He alighted the bus. The claimant was supposed to get down at Kumar Nagar. However, the claimant somehow missed this bus stop and he informed the same to the conductor of the bus. Therefore, the bus was driven slowly in between Kumar Nagar and the RTO office. When the claimant attempted to get down, he fell down and the rear wheel ran over the legs resulting in the claimant sustaining crush injuries. The very same version has also come out even during the cross examination.

9. The conductor of the bus was examined as RW1 on the side of the respondent corporation. He has stated in the chief examination that the claimant was travelling in the bus and that he all of a sudden attempted to get down from the bus near the RTO office even before the bus came to a halt. As a result, he lost his balance and fell down resulting in the injuries sustained by him. During cross examination, RW1 has admitted the fact that the FIR was registered as against the bus driver and that he was not aware of the final report that was filed by the police.



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10. The accident had taken place on 24.10.2015 at about 3.30 a.m. and the information that was given to the police station on the same day at about 23.30 hours. This is the earliest version that was given to the police. Therefore, there was no possibility of any deliberation considering the nature of injuries that were sustained. For proper appreciation, the information that was recorded in the FIR is extracted hereunder :-

23.10.2015 ம் தேதி காலை 10.00 மணிக்கு எனது மருமகனின் அப்பா இறந்த காரணத்தால் சம்பவம் புதுப்பட்டிக்கு சென்று பார்த்துவிட்டு இரவு 9.30 மணிக்கு புதுப்பட்டியிலிருந்து புறப்பட்டு தேனி பஸ் நிலையம் வந்து திருப்பூர் பஸ்சில் ஏறி 3.30 மணிக்கு திருப்பூர் பஸ் நிலையம் வந்தும் திருப்பூர் பஸ் நிலையத்திலிருந்து குமார் நகர் செல்லும் TN 33 N1994 திருப்பூர் முதல் பெருமாநல்லூர் செல்லும் பஸ்சில் ஏறி குமார் நகர் பஸ் ஸ்டாப் இறங்குவதற்கு மறந்ததால் கண்டக்கடரிடம் சொல்லி பஸ் நிறுத்த சொன்னேன். பின்னர் பஸ் ரைவர் வண்டியை குமார் நகருக்கு RTO ஆபிசுக்கும் இடையில்வண்டியை மெதுவாக சென்ற போது நான் படியிலிருந்து கீழே இறங்க முற்பட்ட போது எனது கை நழுவி கீழே விழுந்ததால் பஸ்சில் பின்பக்க டையர் எனது இரு



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கால்களிலும் ஏறியதும் எனது இரண்டு கால்களிலும் எலும்பு முறிவு

ஏற்பட்டதால் அருகேயிருந்த பொது மக்களின் உதவியுடன் 108

ஆம்புலன்ஸ் மூலம் திருப்பூர் GH க்கு சென்று முதல் உதவி செய்து

மேல் சிகிச்சைக்காக கோவை CMC ல் அட்மிட் செய்து சிகிச்சையில்

இருந்த போது அனுப்பப்பாளையம் போலீசார் என்னை விசாரித்தீர்கள்

நான் நடந்ததை சொன்னேன்.

11. The short question that arises for consideration is as to whether the accident had taken place purely due to the negligence on the part of the claimant as was held by the Tribunal.

12. There is no dispute with regard to the fact that the claimant was travelling in the bus. This was spoken to both by the claimant as well as the conductor, who was examined as RW1. The statement of the claimant that was recorded in the hospital which formed the basis for the FIR (Ex.P1) shows that the claimant was supposed to get down at Kumar Nagar bus stop. He missed this bus stop and therefore, he requested the conductor to stop the bus. As a result, the bus was slowed down near the RTO office and when the claimant was attempting to get down, he fell



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down and the rear wheel ran over the legs resulting in crush injury.

13. The above version given by the claimant is very natural and there is no deliberation involved since the statement was recorded by the police in the hospital where the claimant was undertaking treatment. If the bus driver is not inclined to stop the bus, he could have informed the same to the claimant and the claimant could have been asked to get down in the next bus stop. However, the driver slowed down the bus near the RTO office to enable the claimant to get down. Unfortunately, the claimant lost balance and fell down and the rear wheel ran over the legs.

14. It is a common practice adopted by many bus drivers whenever any passenger wants to get down from the bus, when he / she misses the bus stop and makes a request to get down before the bus reaches the next stop. On many occasions, the passengers get down once the bus is slowed down and thereafter, the bus proceeds to the next stop. Unfortunately, in this case, the claimant lost his balance and fell down.



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15. The Tribunal went wrong in attributing the entire negligence against the claimant based on what was stated in the FIR. The FIR must be read in its entirety and a portion of the FIR cannot be considered and held against the claimant. The reason as to why the claimant got down from the slowly moving bus was that the claimant missed the bus stop and requested the bus to be stopped and the bus slowed down near the RTO office to enable the claimant to get down from the bus. If the driver wanted the claimant to get down from the bus, he should have completely halted the bus or in the alternative, the claimant should have been told that the bus will be halted only in the next bus stop. Without doing so, if the bus is slowed down with an expectation that the claimant will get down, certainly negligence cannot be attributed against the claimant.

16. In the light of the above discussion, the findings of the Tribunal attributing the entire negligence against the claimant is unsustainable and hence, the same is hereby set-aside. This Court holds that there was certainly negligence on the part of the bus driver who should have either completely brought the bus to a halt or should have



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stopped the bus only in the next stop. The driver not having adopted either of these alternatives and had slowed down the bus to enable the claimant to get down from the bus, should be made liable for the consequence.

17. In the result, the award passed by Exclusive MACT, Tirupur in MCOP No.98 of 2016 dated 15.06.2022 is hereby set-aside. The matter is remanded back to the Tribunal in order to enable the Tribunal to fix the compensation payable to the claimant. This process shall be completed within a period of three months from the date of receipt of a copy of this order.

18. In the result, this Civil Miscellaneous appeal is allowed with the above directions. No costs.

29.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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N.ANAND VENKATESH.,J
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To,
Exclusice MACT, Tirupur.

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