

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2786 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation,
Railway Station New Road,
Kumbakonam Town,
Kumbakonam Taluk and District. ... Appellant/Respondent

vs.

Chitra ... Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 Motor Vehicles Act, 1988 against the Judgment and decree dated 21.07.2015 passed in M.C.O.P.No.22 of 2015, on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Nagapattinam.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

The Managing Director of Tamil Nadu State Transport Corporation, Kumbakonam, has filed this Appeal challenging the impugned Judgment and Decree passed in MCOP No.22 of 2015 dated 21.07.2015 awarding a sum of Rs.40,000/- for the multiple injuries suffered by the claimant/respondent mainly on the ground that the Tribunal has committed error in attributing negligence on the part of the driver of the offending bus belonging to the appellant Transport Corporation.

2. On 2.11.2014 at about 12.15 hours, the husband of the injured Chitra, and the injured Chitra were returning after attending a marriage, by a Honda Motor Cycle bearing Reg No.TN 51 H 1811, which was ridden by the husband of the injured Chitra and the claimant/injured Chitra travelled as a pillion rider, and when they reached near Sikkal Mariamman Temple, the bus belonging to the appellant Transport Corporation bearing Reg.No.TN 68 N 0052 being driven by its driver in a rash and negligent manner dashed against the Honda Motor Cycle and in the

impact, both the husband of the claimant and the claimant/respondent have suffered injuries. The respondent filed claim petition for a sum of Rs.3,90,000/- but ultimately, restricted her claim to Rs.1,00,000/-. On appreciation of pleadings and evidence, the Tribunal awarded a sum of Rs.40,000/- for the injuries sustained by the claimant/respondent. Aggrieved by the same, the present appeal has been filed by the Managing Director of the Tamil Nadu State Transport Corporation, Kumbakonam.

3. The learned counsel appearing for the appellant would submit that when the rider of the Honda Motor Cycle was driving the Motor Cycle in front of the bus belonging to the Transport Corporation, after seeing a pothole on the right side, to avoid running into pothole, has taken a sudden turn on the right side and in the result, the bus belonging to the appellant Transport Corporation driven by the driver hit the Honda Motor Cycle. The rider of the Honda Motor Cycle has not given any complaint on the accident immediately. However, after 2 days, a complaint has been given by the rider of the Honda Motor Cycle and the same has been registered by Keezha Vellore Police Station in Crime No.494/2014 under sections 279 and 337 of the IPC.,. No reason has been given for the delay in not giving the complaint by the rider of the Motor Cycle immediately after the accident had happened. Without considering these aspects, the Tribunal has held that the driver of the bus belonging to the appellant Transport Corporation was negligent. Therefore, the award of the Tribunal has got to be set aside, he pleaded.

4. Heard the learned counsel appearing for the appellant Transport Corporation and perused the materials available on record.

5. Admittedly, the rider of the Honda Motor Cycle, who was riding in front of the offending vehicle, was turning towards right side of his vehicle to avoid a pothole. While that be the case, the offending vehicle which was admittedly running behind the two wheeler ought to have navigated properly after seeing sudden tuning of the two wheeler towards right side and more over, the offending vehicle should have maintained long gap. Therefore, the contention of the learned counsel for the appellant that the driver of the bus belonging to the appellant Transport Corporation was not negligent in driving at the time of the accident cannot be accepted. Secondly, after the accident, the injured was taken to hospital for treatment. Even in such circumstances, within 2 days, FIR has been registered regarding the accident. Therefore, this Court is unable to see any infirmity in that finding. Thirdly, the amount of compensation of Rs.40,000/- awarded for the multiple injuries suffered by the claimant Chitra also appears to be meagre. Therefore, the contention of the learned counsel for

the appellant that the award amount was excessive and fanciful also cannot be accepted.

6. For all these reasons, this Court do not find any infirmity or irrationality in the impugned award. Hence, the appeal fails and the same is dismissed. No costs. Connected Miscellaneous Petition is closed.

7. It is stated by the learned counsel appearing for the appellant Transport Corporation that they have deposited a sum of Rs.20,000/- towards statutory deposit while preferring the appeal. Therefore, the appellant Transport Corporation is directed to deposit the balance award amount including interest and costs within four weeks from the date of receipt of a copy of this order. On such deposit, it is open for the claimant/respondent to approach the Tribunal for withdrawal of the award amount.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

asvm

To
The Motor Accident Claims Tribunal/
Chief Judicial Magistrate,
Nagapattinam.

+ 1 cc to Mr.D. Venkatachalam, Advocate SR.68440

C.M.A.No.2786 of 2015
and
M.P.No.1 of 2015

RSI (CO)
EU 01.02.16

WEB COPY