

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1131 of 2016
& C.M.P.No.8584 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
No.27, Railway Station New Road,
Kumbakonam @ Periya Milages Parai,
Trichy 620 001.

... Appellant/2nd Respondent

vs.

1. Rangappan

..1st respondent/claimant

2. S.Balu

(R2 set ex-parte before the Court)

..2nd Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 31.07.2013, passed in M.C.O.P.No.182 of 2011 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Namakkal.

For Appellant : Mr.S.Sivakumar

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the Judgment and decree dated 31.07.2013 passed in M.C.O.P.No.182 of 2011 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Namakkal.

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

3. In an accident that took place on 11.05.2011 when 50 year old man, who was working as a coolie, tried to step into the bus belonging to the Transport Corporation bearing Registration No.TN-45-N-2486 the driver, without noticing the claimant. The driver started the bus suddenly, due to which, the claimant fell down from the bus and sustained multiple injuries. The claimant approached the Tribunal claiming compensation to the tune of Rs.15,00,000/-.

4. The Tribunal, taking into account the oral and documentary evidence held that the accident was due to rash and negligent driving of the Transport Corporation driver and granted compensation to the tune of

Rs.9,84,189/-, by directing the appellant to pay compensation to the claimant. Aggrieved over the same, the Transport Corporation has preferred this appeal.

5. The learned counsel appearing for the Transport Corporation contended that the driver of the Bus was no way responsible for the accident and it is the claimant, who tried to step into the running bus, for which, the Corporation is no way liable to pay compensation. However, it is also contended that the Tribunal went wrong in adopting the multiplier method, in the absence of any proof for the age of the claimant. It is his further contention that the compensation awarded by the Tribunal under the head pain and suffering and loss of amenities are on the higher side.

6. While analysing the evidences, the Tribunal has discussed that the driver of the bus without noticing the fact that the claimant is trying to step into the bus, had driven the bus in a rash and negligent manner due to which the claimant was caught under the backside wheel and only after hearing the alarm raised by the co-passengers, the driver stopped the bus. A criminal case has also been registered against the driver of the bus. The Tribunal taking into account the evidence and after perusing the medical records produced by the claimant, came to the conclusion that the accident happened

due to the rash and negligent driving of the bus driver and therefore, fixed the negligence on the appellant Transport Corporation, which in my opinion, is justified. The Tribunal awarded compensation based on Exs.P2 to P7 together with the Disability Certificate, Ex.P.8, issued by the Doctor to the effect that the claimant's leg was amputated. I find that for the injuries sustained by the claimant as stated by P.W.2, Doctor and based on the Disability Certificate, the award of the Tribunal is perfectly justified. Hence, taking note of the totality of the circumstances, I find no reason to interfere with the award of the Tribunal.

7. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The rate of interest granted by the Tribunal is also confirmed. The appellant Transport Corporation Company is directed to deposit the award amount together with interest to the credit of MCOP No. 182 of 2011 on the file of the Motor Accident Claims Tribunal (III Chief Judicial Magistrate, Namakkal, if not already deposited, within a period of eight weeks from the date of receipt of a copy of this order and on such deposit being made, the claimant is entitled to withdraw the same on filing necessary application before the Tribunal. There will be no order as to costs in this appeal. Consequently, connected miscellaneous petition is closed.

8. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016, scrupulously.

29.04.2016

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To

The Motor Accidents Claims Tribunal
Chief Judicial Magistrate, Namakkal.

S.VAIDYANATHAN,J.

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Judgment in
C.M.A.No.1131 of 2016

29.04.2016