

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T. MATHIVANAN

C.M.A.No.1345 of 2016
and
C.M.P.No. 10399 of 2016

The Managing Director,
KSRTC, Chickballapur Division,
Chickballapur Post & Taluk & District,
Bengaluru,
Karnataka State.Appellant/Respondent

Versus

1.Arasavalli

2.The Managing Director,
TNSTC, Ramakrishna Road,
Salem-636 007. Respondents/Petitioner/
Respondent

Prayer: Civil Miscellanies Appeal has been filed under Section 173 of the Motor Vehicles Act of 1988, against the Judgement and decree dated 20.06.2014 passed in M.C.O.P.No.10 of 2013 on the file of the Motor Accident Claims Tribunal(3rd Additional District and Sessions Court), Kallakurichi.

For Appellant :Mr.T.Thiyagaragan
For R1 :Mr.M.R.Jothimanian
For R2 :Mr.D.Venkatachalam

JUDGMENT

Questioning the negligence as well as the quantum of compensation, the appellant/Transport Corporation has filed the present Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act 1988.

2. The first respondent herein had moved the Claims Tribunal with a Claim Petition in MCOP No.10 of 2013, claiming a sum of Rs.10,00,000/- towards compensation for the injuries sustained by her.

3. According to the first respondent/claimant, that on 30.10.2010 at about 11.30 a.m, when she was travelling in a passenger bus bearing registration No.TN-29-N-1726 belonging to the second respondent/Transport Corporation, at a place near Eraiyur X Road, the passenger Bus belonging to appellant/Transport Corporation bearing registration No.KA-40-F-136, came from the opposite direction in a rash and negligent manner and dashed against the second respondent's passenger bus and as a result of which, the first respondent/claimant and other inmates of the bus had sustained grievous injuries. In this case, both the appellant/ Transport Corporation as well as the second respondent / Transport Corporation had contested the claim petition filed by the first respondent/claimant.

4.According to the first respondent / claimant, due to the said accident she had sustained fracture over her right leg and her hip joint was dislocated. Since both the injuries were grievous in nature, soon after the accident, she was shifted to GIPMER Hospital, Pondichery. PW2, Viswanathan, had assessed her disability @ 65%. However, the Tribunal had reduced the same to the extent of 50%. The Tribunal, considering 50% of disability had awarded a sum of Rs.1,00,000/- towards permanent disability. Apart from this amount, the Tribunal had awarded the compensation under the following heads:

(i)Transport expenses	Rs.25,000/-
(ii)Extra Nutrition	Rs.5000/-
(iii)Pain and suffering	Rs.10000/-

Totally, the Tribunal had awarded a sum of Rs.1,40,000/- towards compensation, directing the appellant/Transport Corporation to pay this amount with interest @ 7.5 % per annum.

5.When the appeal is taken up for hearing, Mr.T.Thiyagarajan, learned counsel appearing for the appellant/Transport Corporation has submitted that in the connected appeals viz., CMA Nos.2427 to 2432 of 2013 and CMA Nos.1788 to 1793 of 2014, this Court had directed the appellant/Transport Corporation as well as the second respondent/ Transport Corporation to apportion the liability to the extent of 50:50 proportionate to the negligence on their respective drivers to the extent of 50:50.

6.Mr.M.R.Jothimanian, learned counsel appearing for the first respondent has submitted that he has no objection to follow the judgement of this Court dated 30.06.2014 and made in the connected Civil Miscellaneous Appeals as afore stated.

7.This Court, in paragraph No.29 of it's judgement dated 30.06.2014, has observed as under:

'in view of the above discussion and decisions and the categorical admission by the Karnataka State Road Transport Corporation, before the Claims Tribunal, as stated supra, this Court is not inclined to reverse the finding, fixing negligence in equal proportion against both the drivers of the Karnataka State Road Transport Corporation bus & Tamilnadu State Transport Corporation bus.'

8. In view of the judgement of this Court in the above mentioned Connected Appeals, the appellant/Transport Corporation is liable to the extent of 50% of compensation, which is proportionate to the negligence of its driver and accordingly the appellant is directed to deposit 50% of the award amount with proportionate accrued interest @ 7.5% from the date of petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the first respondent/claimant is entitled to withdraw the deposited amount alongwith proportionate accrued interest and costs.

9. Accordingly, the Civil Miscellaneous Appeal is partly allowed modifying the award of the Tribunal as afore stated. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal,
(3rd Additional District & Sessions Judge)
Kallakurichi.

1 cc to M/s.T.Thiyagarajan, Advocate, sr.37618
1 cc to M/s.Jothimanian, Advocate, sr.37108

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ug co, kra 21.09.2016