

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.212 of 2014

The Managing Director,
Tamil Nadu State Transportation
Corporation Ltd.,
No.12, Ramakrishna Road,
Salem -7.

... Appellant/Respondent

Vs.

Kulathekkan

... Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 20.12.2012 made in M.C.O.P No.283 of 2011 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Namakkal.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

Challenging the award passed by the Tribunal on the question of negligence, the Transport Corporation has come up with this appeal.

2. On 09.08.2009, when the claimant was travelling in a Car bearing Registration No.TN 45 AC 5572 on Namakkal-Tiruchengode Main Road, near Sengodampalayam Water Tank Station, a bus bearing Registration No.TN 30 N 0128 belonging to the appellant/Transport Corporation came in a rash and negligent manner and dashed against the Car, due to which the claimant sustained grievous injuries all over the body and he was immediately taken to Namakkal C.M. Hospital. He filed a Claim Petition before the Tribunal seeking a sum of Rs.10,00,000/- as compensation for the injuries. After analyzing the available oral and documentary evidence, though the Tribunal arrived at a sum of Rs.2,00,000/- as compensation to the claimant, in view of 75% negligence fixed against the appellant, a sum of Rs.1,50,000/- was awarded as compensation to the claimant. Details of the compensation granted under various heads are as under:

Heads	Amount
Injury	Rs. 14,000.00
Loss of income	Rs. 13,000.00
Transportation	Rs. 1,000.00
Extra nourishment	Rs. 25,000.00
Medical Bills	Rs. 21,500.00
Pain and Suffering	Rs. 25,500.00
Loss of earning capacity	Rs. 60,000.00
Permanent Disability	Rs. 40,000.00
Total	Rs. 2,00,000.00
75% of the Total Amount	Rs. 1,50,000.00

3. It is the contention of the learned counsel appearing for the appellant/Transport Corporation that the accident occurred only due to the rash and negligent driving of the driver of the Car and that the Tribunal has erred in fixing only 25% negligence on the driver of the Car.

4. On a perusal of the records, it is seen that the Car and the Bus belonging to the appellant/Transport Corporation dashed against each other. Taking note of the evidence that the driver of the Car had crossed the centre median and that the driver of the Bus had also not taken sufficient care and had driven the vehicle in a rash and negligent manner, the Tribunal held that the accident had occurred due to the negligence of drivers of both the Car and the Bus, thereby fixing 25% negligence on the Car driver and 75% negligence on the Bus driver.

5. To prove the case of the appellant that the entire negligence is on the part of the driver of the Car, no independent witness was examined on the side of the appellant/Transport Corporation except the interested witness of R.W.1, Driver. Moreover, no documents were produced to corroborate the contention that the Car crossed the centre median of the road. In view of the same, this Court is of the view that the Tribunal has rightly fixed 25% negligence against the driver of the Car and 75% negligence against the driver of the Bus. Hence, the award of the Tribunal as regards fixation of negligence is confirmed. Since there is no dispute as regards the quantum of compensation awarded by the Tribunal, the same is confirmed.

6. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the negligence fixed by the Tribunal as also the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. It is made clear that

if no amount is deposited so far, the appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.283 of 2011 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Namakkal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimant in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company. No costs. Consequently, connected M.P.No.1 of 2014 is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The Additional District Judge,
Motor Accidents Claims Tribunal,
Namakkal.

Copy To

The Section Officer,
V.R.Section,
High Court, Madras.

C.M.A.No.212 of 2014

GJ II(CO)
CA(29/09/2016)

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