

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.613 of 2014
and M.P.No.1 of 2014

The Managing Director
Tamil Nadu State Transport Corporation
Trichy. ...Appellant/2nd Respondent

Vs.

1.Karthick ...Ist Respondent/Petitioner
2.Ganesa Raja
3.Rajan
4.Suganya Jayaprakash
5.United India Insurance Co, Ltd.
Office at No.280, Otty Main Road,
Mettupalayam.
(RR 2 to 4 were set ex-parte) ...Respondents 2 to 5/
Respondents 1, 3 to 5

Prayer: Civil Miscellaneous Appeals as against the Judgment
and decree dated 04.03.2013 made in M.C.O.P. No.438 of 2010 on
the file of Motor Accidents Claims Tribunal, Chief Judicial
Magistrate, Tiruppur.

For Appellant : Mr.D.Venkatachalam

For Respondents : Mr.Ma.P.Thangavel for R1
RR2 to 4 Set exparte
R5 - Not ready notice.

JUDGMENT

Transport Corporation has preferred this Civil Miscellaneous
Appeal challenging the Judgment and decree dated 04.03.2013
passed in M.C.O.P.No.438 of 2010 on the file of the Motor
Accidents Claims Tribunal, Chief Judicial Magistrate, Tiruppur.

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

3. This is a case of injury. In an accident that took place on 02.04.2010 at 1.30 hours, when the claimant was travelling as a passenger in the bus bearing registration No.TN-45-N-2773 coming from Kangeyam to Kovai Road, a Tipper lorry bearing Registration No.TN.38-AT-4848 driven by its driver in a rash and negligent manner dash against the bus, thereby, resulting in the claimant sustaining multiple injuries. The claimant approached the Tribunal claiming compensation to the tune of Rs.6,00,000/-.

4. The Tribunal, taking into account the oral and documentary evidence granted compensation to the tune of Rs.1,35,645/-, by directing the driver and the 2nd respondent/appellant to pay the compensation to the claimant, by holding that the accident was due to rash and negligent driving of the bus which belongs to the 2nd respondent and the Bus driver. Aggrieved over the same, the Corporation is before this Court.

5. According to the claimant, the 2nd respondent's bus was driven in a rash and negligent manner and the driver of the transport corporation bus was solely responsible for the accident.

6. The learned counsel appearing for the Transport Corporation contended that the only point raised in this appeal is with regard to the quantum of compensation granted by the Tribunal. According to him, the claimant is only a student of 18 years old and awarding compensation under the head future prospectus is erroneous. It is his further contention that the claimant sustained only one fracture and the disability assessed by the doctor at 28% is on the higher side.

7. One Ganeshraja, driver of the Bus of the appellant Corporation was examined as R.W.1. However, the complaint was lodged by the cleaner of the tipper lorry and it was stated therein that the driver of the corporation bus tried to overtake the mini van without noticing the tipper lorry and hence, dashed against the lorry and caused the accident, due to the same, 4 passengers of the bus sustained grievous injuries and one passenger died on the spot. Taking into account the evidence of R.W.1 and taking note of the First Information Report Ex.P.1 and perusal of the entire evidences, the Tribunal, came to the conclusion that the accident happened due to the rash and negligent driving of the driver of the bus and fixed the liability on the appellant Corporation and on the insurer of the vehicle which, in my opinion, is justified. The Tribunal awarded compensation to the tune of Rs.1,35,645/- based on

Exs.P6 to P9. Though it is contended that the amount awarded under the head, future would not come in this case, I find that for the injuries sustained by the claimant as stated by the Doctor and based on the disability certificate, the claimant would be entitled for some amount under the head extra nourishment. Hence, the amount granted towards future can be taken as award for extra nourishment. In view of the above, I am of the view that the award of the Tribunal is perfectly justified.

8. 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 their share of the award amount together with interest to the credit of MCOP No.438 of 2010 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Tiruppur, 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. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal
Chief Judicial Magistrate,
Tiruppur.

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

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.25528

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No.25570

C.M.A.No.613 of 2014

PVS (CO)

CA(12/09/2016)