

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.1398 of 2009
and M.P.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Railway Road,
Kumbakonam.

... Appellant/2nd Respondent

Vs.

1.K.T.Ansari Hac ... 1st Respondent/Petitioner

2.R.Rajasekar (Given up) ... 2nd Respondent/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award made in M.A.C.T.O.P.No.35 of 2006 dated 31.10.2006 passed by the Motor Accident Claims Tribunal, Karaikal.

For Appellant : Mrs.A.Manju Matha
for Mr.N.Anand

For Respondents : Mr.R.Natarajan [for R1]
R2 [Given up]

JUDGMENT

The State Transport Corporation is the appellant before this Court, and it challenges the award in M.A.C.T.O.P.No.35 of 2006 on the file of the Motor Accident Claims Tribunal, Karaikal.

2. The case of the complainant/1st respondent herein is that he suffered 30% disability in a road accident that took place on 23.07.2005 at about 5.30 p.m. when a bus bearing Registration No.TN49-N-509 belonged to the appellant Transport Corporation dashed against the two wheeler, in which the complainant was travelling at that relevant time as a pillion rider.

3. As indicated, the victim suffered 30% disability and based on the evidence of P.W.2 and Ex.P9, the Tribunal has determined the total liability at Rs.71,717/- of which, the compensation towards disability is fixed at Rs.30,000/-

4. The learned counsel for the appellant submitted that the driver of the bus was not negligent, and that the bus itself was stationary, and that the two wheeler was driven rashly and negligently by its rider who was fatally killed in the accident, and the claimant/respondent, suffered injuries not due to any alleged rash and negligent driving of the bus, but of his own rider.

5. This was strongly opposed by the learned counsel for the respondent who argued that there is hardly any material on record to indicate that the rider of the moped was responsible for the accident.

6. On perusing the material on record, this Court does not find anything to support the argument of the appellant. Hence, this Court does not find any merit and hence, the Civil Miscellaneous Appeal is dismissed with a direction to the appellant to deposit the compensation amount, less if any already deposited, before the Tribunal within a period of six weeks from the date of receipt of a copy of this order, and on such deposit, claimant is entitled to withdraw it forthwith. No costs. Consequently, connected miscellaneous petition is closed.

7. The claimant is permitted to withdraw the compensation amount less if any already withdrawn, by filing appropriate petition before the Court below.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ds

To

The Motor Accident Claims Tribunal,
Karaikal.

+1cc to Mr.R.Natarajan, Advocate, S.R.No.67464

C.M.A.No.1398 of 2009

BR(CO)
CA(27/12/2016)