

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.11.2016

CORAM

THE HON'BLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.2457 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam Division No.1,
Railway Station Road,
Kumbakonam.

.. Appellant/3rd
Respondent

.. Vs ..

1.P.V.Ganesan
2.J.Kamala
3.The Branch Manager,
National Insurance Company Limited,
No.23/2, Nethaji Road,
Tiruvarur Nagar,
Tiruvarur Taluk and Munsif.

..Respondents/Petitioner &
Respondents 1 & 2

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, to set aside the judgment and decree dated 04.02.2008 made in M.C.O.P.No.426 of 2005 on the file of the Motor Accident Claims Tribunal, Tiruvarur

For Appellant : M/s.Manjumatha for Mr.N.Anand
For Respondents: No Appearance

JUDGMENT

The State Transport Corporation, which is arrayed as third respondent in MCOP No.426/2005 on the file of MACT (Subordinate Court), Tiruvarur, has come forward with this appeal challenging an award granting compensation to the first respondent/claimant for the injuries suffered by him in a road accident took place on 23.10.2004. The first respondent/ claimant was travelling at the relevant time in a private bus belonging to the second respondent. While so, a bus bearing registration No.TN-49N-0564 belonging to the appellant, dashed against the other bus and as a consequence claimant suffered injuries to his right hand and the same had to be surgically amputated.

3. Before the Tribunal, the claimant sought a compensation of Rs.3,00,000 whereas the Tribunal passed an award for Rs.1,35,500/-. As there was extensive damage to the front

portion of both the buses, the Tribunal concluded that drivers of both the buses had contributed to the accident in equal terms and accordingly apportioned the liability of the owner and Insurance Company of the private bus and State Transport Corporation at 50% each. In short, the appellant's liability has been fixed at Rs.67,750/- and the same has been deposited by the appellant/Transport Corporation.

4. Before this Court, the learned counsel for the appellant would contend that the accident had occurred due to the negligence of the driver of the private bus in which the claimant was travelling and necessarily the Tribunal ought to have fixed the entire liability on the owner and the Insurance Company of the private bus and should have absolved the appellant entirely for meeting the liability fixed on it.

5. It is stated that the claimant was aged 55 years at the time of accident and he was working as an Accountant in a private concern. He had produced Ex.P1-Salary certificate, wherein his monthly salary was indicated at Rs.11,500/-. The Tribunal has assessed the loss of income for two months at a sum of Rs.23,000/-; transport towards Rs.1,000/-; nutrition towards Rs.1,000/-; medical expenses towards Rs.5,500/-; pain and suffering towards Rs.1,000/-; future loss of income towards Rs.4,000/-; loss of permanent disability towards Rs.1,00,000/-. In total, a sum of Rs.1,35,500/- has been fixed as compensation.

6. To my mind, the evidence on record suggests the involvement of both the vehicles and on this aspect there is hardly any infirmity in the finding of the Tribunal and in apportioning 50% of it on the appellant. Though the appellant challenges this finding, it has not been able to establish the fact that it now contends. Considering the fact that the claimant was working as an Accountant in a private concern at the relevant time the quantum of compensation that the Tribunal has determined appears just and reasonable.

7. To conclude this appeal is dismissed but without costs and since the appellant has deposited its share of award amount as ordered by the Tribunal, the claimant is permitted to withdraw forthwith. No costs. MP.1 of 2009 is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Motor Accident Claims Tribunal,
Tiruvavarur.

copy to

The Section Officer
VR Section
High Court Madras

+1 cc to Mr.N.Anand Advocate sr 68167

C.M.A.No.2457 of 2009

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