

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2016

CORAM:
THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.2646 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam Division,
Kumbakonam. Appellant/Respondent

Vs.

Rajamanickam ... Respondent/Claimant

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 06.09.2012 made in M.A.C.T.O.P No.576 of 2009 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Namakkal.

For Appellant : Mr.D.Venkatachalam

For Respondent : Mr.C.Kulanthaivel

J U D G M E N T

The Transport Corporation has come up with this appeal mainly challenging the negligence fixed by the Tribunal.

2. Heard the learned counsel on either side.

3. On 19.04.2009, when the claimant was getting down from the Bus at Perambalur Sarada College Bus Stop, the Driver of the appellant Transport Corporation Bus bearing Registration No.TN 45 N 1934 moved the Bus in a rash and negligent manner, thereby, the claimant fell down from the Bus and sustained grievous injuries and fracture. Immediately after the accident, the claimant was admitted for treatment in Perambalur Government Hospital. He filed a Claim Petition before the Tribunal seeking a sum of Rs.5,00,000/- as compensation for the injuries. After analyzing the available oral and documentary evidence, the Tribunal fixed the negligence on the Driver of the appellant Transport Corporation Bus and awarded a sum of Rs.1,85,000/- as compensation to the claimant under the following heads:

Heads	Amount
40% Disability (Rs.1000/- x 40%)	Rs. 40,000.00
Medical expenses	Rs. 47,000.00
Pain and Suffering	Rs. 13,000.00
Loss of Earning	Rs. 70,000.00
Extra nourishment	Rs. 5,000.00
Loss of income	Rs. 1,000.00
Injuries	Rs. 8,000.00
Transportation	Rs. 1,000.00
Total	Rs.1,85,000.00

4. It is the contention of the learned counsel appearing for the appellant/Transport Corporation that the Tribunal ought not to have considered the evidence of P.W.1, whose evidence is not corroborated by any other independent witness. It is his further contention that the Tribunal failed to take note that the F.I.R. registered against the driver of the Bus has been closed by the Police.

5. A perusal of the records goes to show that when the claimant was getting down from the appellant Transport Corporation Bus, the Driver moved the Bus in a rash and negligent manner, as a result of which, the claimant fell down and sustained injuries. The driver of the Bus should have been more cautious while moving the Bus from the Bus stop, thereby ensuring that the passengers have got down from the Bus. Be it that the F.I.R. has been closed as 'Mistake of Fact', the decision of the Tribunal cannot be substituted by the conclusion of the police. The Tribunal has fixed the negligence on the driver of the appellant Transport Corporation Bus only after examining the evidence. On a consideration of the evidence on record, this Court is of the view that the negligence fixed by the Tribunal on the driver of the appellant Transport Corporation Bus cannot be faulted with and the same is confirmed.

6. As the learned counsel for the appellant Transport Corporation has mainly challenged the negligence aspect and that the quantum awarded by the Tribunal is not disputed, the same is confirmed.

7. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the negligence 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.576 of 2009 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 2013 is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To :

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

Copy to:
The Section Officer,
V.R.Section, High Court, Madras.

+1 cc to Mr.C.Kulanthaivel,advocate,sr.14444

+1 cc to Mr.D.Venkatachalam,advocate,sr.14514.

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