

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.178 of 2010

Rajamanickam

.. Appellant/Petitioner

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Dharmapuri.

.. Respondent/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 12.08.2009 and made in M.C.O.P.No.77 of 2006 on the file of the Motor Accident Claims Tribunal, Tiruvannamalai (Principal Sub-Court, Tiruvannamalai).

For Appellant : Mr.M.Malar

For Respondent : Mr.D.Venkatachalam

JUDGMENT

The appellant who lost his claim petition before the Tribunal has come forward with this appeal.

2. The brief facts of the case relevant for the purpose are: On 12.03.2005 at about 11.30 a.m., the petitioner while riding his motor cycle bearing Reg.No.TN-02-A-4855 along Tiruvannamalai-Chengam Road, a State Transport Corporation Bus bearing No.TN-29-N-1197 said to have dashed against the claimant that left him suffering grievous injuries. He preferred a petition before the Tribunal with a claim of Rs.1,00,000/-.

3. In its counter the State Transport Corporation has pleaded that its bus bearing No.TN-29-N-1197 which was said to have been involved in the accident was not on the route indicated by the petitioner at the relevant time and that it was at Uthangarai Bus stand in Dharmapuri District.

4. During enquiry before the Tribunal, the respondent corporation produced Ext.R-1 Time Chart and Ext.R-2 Trip-sheet of the bus concerned as on 12.03.2005. From these documents, the Tribunal suspected the involvement of the alleged bus in the accident due to its improbability of injuring somebody on Tiruvannamalai-Chengam road as it was in Uthangarai bus stand, several kilometres away. Needless to state it dismissed the application.

5. The learned counsel for the appellant submitted before this Court that as per Ext.R-2, the bus was at Dharmapuri at the relevant time. RW1 driver through his deposition has stated that he took the bus at 11.30 p.m., at Dharmapuri. However, in the counter, the respondent has pleaded that at the relevant time, the bus was at Uthangarai. This inconsistency in the evidence as produced by the respondent and its contradiction to its pleading indicate that the respondent has come forward with a false defence.

6. Per contra, the learned counsel for the respondent corporation argued that Exs.R-1 and R-2 are contemporaneously prepared documents and the State Transport Corporation need not fabricate the document just to defend its case involving Rs.1,00,000/- as claim.

7. The submissions of the learned counsel for the appellant do not impress this Court. Every disputed fact having a civil liability is decided on probability, and the same rule of probability if applied for appreciation of evidence in this case, it would guide this Court to a conclusion that the bus in question could not have been on Tiruvannamali-Chengam road at 11.30 p.m. on 12.03.2005. It may be that there is a degree of inconsistency of the plea of the respondent in its counter and the evidence offered, still there is one common feature which may be termed consistent is that both in the pleadings and evidence that the bus was stated to be not plying in Thiruvananthapuram-Chengam route at the very moment when the accident took place, and if so considered, it does not matter whether the bus was in Dharmapuri or in Uthangarai. In other words, there is no proof that the bus was at the scene of accident when the accident took place. The trip-sheets indicate that the bus was some 30 to 40 kms away from the scene of accident. A reading of Exts.R-1 and R-2 does not give any indications that they might have been fabricated for the purpose of this case. In essence, this Court endorses the findings of the Tribunal suspecting the involvement of the bus in question in the accident. What lends greater suspicion to the case of the claimant is that First Information Report has been registered after an inexplicable delay of 8 days. Necessarily, the appeal requires to be dismissed.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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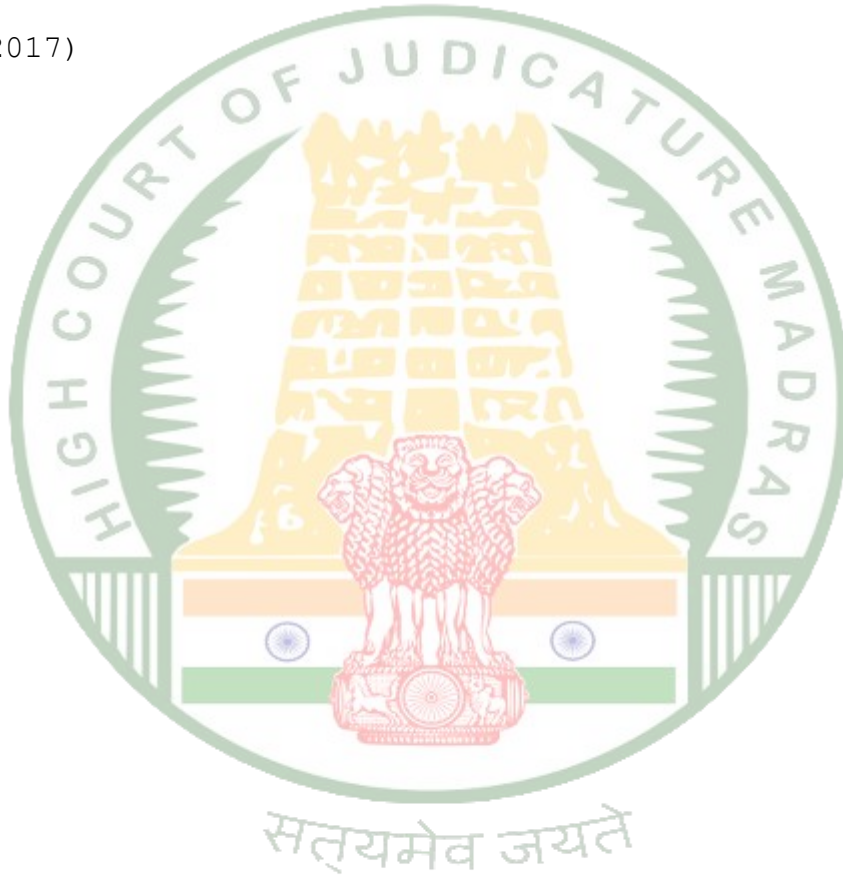
1. The Motor Accident Claims Tribunal
Tiruvannamalai (Principal Sub-Court, Tiruvannamalai).

+1cc to Mr.M.Malar, Advocate, S.R.No.55567

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.55787

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GJ(CO)
GN(20/11/2017)



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