

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-04-2017

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2034 of 2006
and M.P.No.1 of 2006

Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Div.II Ltd., Erode,
Rep.by its Managing Director ...Appellant/R2

Vs

1.Chennimalai ...R2 / Petitioner

2.K.Palanisamy ...R2 / R1
(R2- given up)

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the award and decreetal order passed by the Motor Accident Claims Tribunal (II Additional Sub Judge, Erode) made in MACTOP No.110 of 2005 dated 27.01.2006.

For Appellant : Mr.K.J.Sivakumar
For Respondents : No appearance

J U D G M E N T

This appeal arises out of the award and decreetal order passed by the Motor Accident Claims Tribunal (II Additional Sub Judge, Erode) made in MACTOP No.110 of 2005 dated 27.01.2006.

2. The appellant is the respondent, the first respondent is claimant and the 2nd respondent is the driver of the bus in MACTOP No.110 of 2005.

3. The first respondent/claimant filed claim petition before the Tribunal claiming a sum of Rs.1,00,000/- as compensation for the injuries sustained by her in the accident that took place on 28.10.2002.

4. According to the first respondent, while she was travelling as one of the passengers in the 2nd respondent's corporation bus bearing Regn.No.TN 33 N 1537, from Chennai to Erode, near Karumapuram Road piruvu, along Salem - Athur Main Road, at 2.00 a.m., the driver of the bus drove the same in a rash and negligent manner and dashed against the road side

tamarind tree. In the said accident, the first respondent sustained grievous injuries at her head and right eye-brow. He was given first aid at Government Hospital, Salem and subsequently shifted to Coimbatore. Thereafter, she took treatment at Joseph Hospital, Rangampalayam, Erode.

5. In the claim petition, it is further stated that she was aged 65 years at the time of accident, doing money lending business at local area and selling arappu at local market by earning a sum of Rs.5,000/- per month. Thus, claiming a sum of Rs.1,00,000/-, the first respondent, alongwith other claimants filed claim petition before the tribunal for the injuries sustained by her.

6. The appellant filed counter denying the averments made by the first respondent/claimant. It is further stated that the driver of the bus drove the bus in a careful manner however due to drizzle of rain, to avoid accident, the driver of the bus applied brake, which in turn skidded and dashed against the tamarind tree and that there is no fault on the driver of the bus, belonging to the appellant/transport corporation and hence they are not liable to pay compensation to the first respondent/claimant. It is further contended that the amount claimed is highly excessive and that the petition has to be dismissed.

7. Before the Tribunal, P.Ws.1 to 4 were examined as witnesses and eighty (80) documents were marked as Exs.P1 to P80. On the side of the respondents, the 2nd respondent was examined as R.W.1 but no documents were marked.

8. The Tribunal framed necessary points for consideration. On considering the pleadings, oral and documentary evidence, the Tribunal passed a common order fixing liability upon the driver of the bus and directed the appellant to pay compensation to the first respondent/claimant. The tribunal, considering the nature of injuries sustained by the first respondent and on perusal of exhibits, awarded a sum of Rs.33,100/- as compensation payable to the first respondent. Against the said order, the appellant/insurance company filed the present appeal.

9. I have heard the rival submissions and perused the materials available on record.

10. The contention of the learned counsel for the appellant that the driver of the bus drove the same in a careful manner, however due to drizzle, to avoid accident, when he applied brake, which in turn skidded and dashed against the tamarind tree and that there is no fault on the driver of the bus, belonging to the appellant/transport corporation is unsustainable. The tribunal has given a valid reason for fixing

the negligence and liability on the drivers of the appellant. Hence, there is no reason to interfere with the said finding. The first respondent has proved the nature of injuries and the treatment taken by her by producing relevant documents and examining doctor, P.W.4. Similarly, the tribunal has rightly awarded a sum of Rs.33,100/- alongwith interest @ 7.5% from the date of petition till the date of deposit which seems to be very reasonable and hence the same is confirmed.

11. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

12. The appellant is directed to deposit the entire award amount alongwith interest and costs, as per the order of the tribunal, within a period of four (4) weeks from the date of receipt of a copy of this order, if not already deposited. On such deposit, the first respondent/claimant is permitted to withdraw the amount alongwith interest and costs, less the amount already withdrawn, if any.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

The II Additional Subordinate Judge,
Motor Accident Claim Tribunal,
Erode.

+1 cc to mr.N.Anand,advocate,sr.20624.

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krd 25/4

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C.M.A.No.2034 of 2006

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