



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A(MD)No.32 of 2017

and

C.M.P(MD)No.284 of 2017

The Tamil Nadu State Express Transport Corporation, Through its
The Managing Director,
Chennai.

... Appellant/Respondent

Vs.

S.Anandan

... Respondent/Petitioner

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.75 of 2007, dated 15.04.2015 on the file of the Motor Accident Claims Tribunal/Sub-Court, Sivagangai.

For Appellant

: Mr.P.Prabhakaran

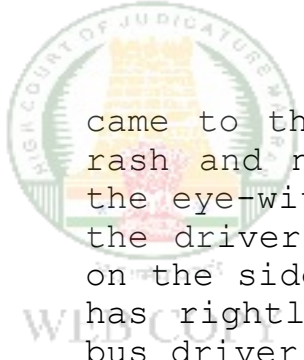
JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the appellant-Transport Corporation against the award of Rs.1,98,000/- (Rupees One Lakh Ninety Eight Thousand only) as compensation for the injuries sustained by the respondent in the accident occurred on 27.05.2004, when the respondent was travelling in the appellant Corporation bus bearing Registration No. TN-01-N-6265 which colluded with a lorry bearing Registration No.TN-59-J-4045 while overtaking the appellant Corporation bus.

2. Heard the learned Counsel appearing for the appellant and perused the materials available on records.

3. Mr.P.Prabhakaran, learned Counsel appearing for the appellant would submit that the respondent was negligently extending his hand outside the bus and therefore, while overtaking the bus, the lorry hit the respondent, resulting in injury sustained by him. Therefore, there is a contributory negligence on the part of the claimant.

<https://hcservices.courts.gov.in/web-services/> the award would reveal that the Tribunal taking note of the filing of F.I.R-Ex.P1 against the driver of the Transport Corporation bus and also Ex.P4-Sketch of the accident,



came to the conclusion that the accident occurred because of the rash and negligent driving of the bus driver. Further, PW.2 is the eye-witness who deposed that the negligence was on the part of the driver of the Corporation bus and there is no contra evidence on the side of the appellant Corporation. Therefore, the tribunal has rightly fixed the negligence on the part of the Corporation bus driver and hence, the same cannot be interfered with.

5. Though the learned Counsel for the appellant would submit that the claim awarded on the higher side, the Tribunal based on the evidence of PW.3-Doctor and the disability of the respondent, namely, fracture of right hand and surgery to fix the plate inside the hand and thereafter, surgery to remove the plate and consequent restriction of movement of his hand and other disability, determined the disability at 45%. When PW3-Doctor spoke about 45% disability, there is no occasion for this Court to reduce the said determination.

6. The Tribunal rightly relying upon the judgment of this Court in **National Insurance Company -vs- G.Ramesh reported in 2013 (2) TNMAC 583** awarded a sum of Rs.3,000/- (Rupees Three Thousand only) per disability and hence the Tribunal awarded a sum of **Rs.1,35,000/-** (Rupees One Lakh Thirty Five Thousand only) and rightly awarded the compensation of **Rs.1,98,000/-** (Rupees One Lakh Ninety Eighty Thousand only) including the other heads. The rate of interest 7.5% remains unaltered. Therefore, there is no occasion for this Court to interfere with the award passed by the Tribunal.

7. In the result, this Civil Miscellaneous Appeal is dismissed. The accident occurred in the year 2004 and the award was passed on 15.04.2015 and the respondent/claimant would be suffering. Therefore, the appellant - Transport Corporation is directed to transfer the entire award amount along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs, to the personal Savings Bank Account Number of the respondent/claimant, less the amount already deposited, if any, by RTGS/NEFT within a period of **six weeks** from the date of receipt of a copy of this order, failing which, the Chairman cum Managing Director as well as the Chief Financial Advisor of the appellant-Transport Corporation shall appear before this Court. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

/True Copy/



To

1.The Motor Accident Claims Tribunal/Sub-Court,
Sivagangai.

2.The Record Keeper,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.P.Prabhakaran, Advocate SR.No.1756

gsr

SM:Cm-MSA:01.03.2017:3p/4c

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