



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.871 of 2015

MP(MD)No.2 of 2015

Tamil Nadu State Transport Corporation,
Represented by its Managing Director,
Karaikudi.

... Appellant / Respondent No.4

Vs.

1.S.Ramachandran

... Respondent No.1/Petitioner

2.S.R.Balasubramani

... Respondent No.2 /Respondent No.1

3.The Oriental Insurance Company Ltd.,
Represented by its Divisional Manager,
39/40, Workshop Road,
Saradha Shopping Centre,
Simmakkal, Madurai.

... Respondent No.3 /Respondent No.2

4.Tamil Nadu State Transport Corporation,
Represented by its Managing Director,
Bye-Pass Road, Madurai.

... Respondent No.4/Respondent No.3

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and award passed by the Motor Accident Claims Tribunal, IV Additional Sub-Judge, Madurai, in MCOP No.1309 of 2007 dated 15.06.2012.

For Appellant : D.Sivaraman
For R-1 : M/s.Gopalakrishnan
for Mr.A.Joseph Jerry
For R-2 & R-3 : No Appearance
For R-4 : M.Kalaiyarasan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation, against the award, dated 15.06.2012 made in M.C.O.P.No.1309 of 2007 by the Motor Accident Claims Tribunal, IV Additional Sub-Judge, Madurai.

2. It is a case of injury sustained by the claimant in the accident occurred on 15.01.2006 at about 11.00 hours at Madurai to Paramakudi road near Silambar Ayyanar Koil. The accident occurred when the injured claimant travelled along with others in a Qualis Car bearing Registration No.TN-67-T-7386. When they came near Silambar Ayyanar Koil, the car dashed against the Transport Corporation bus bearing Registration No.TN 63-N-680 and in the said



accident, the injured/claimant sustained injuries.

3. The claimant filed an application in M.C.O.P.No.1309 of 2007 on the file of the Motor Accident Claims Tribunal, IV Additional Sub Judge, Madurai, seeking compensation.

4. Before the Tribunal, the 1st respondent/claimant examined four witnesses as P.W.1 to P.W.4 and marked eight documents as Ex.P1 to Ex.P8. On the side of the appellant/Transport Corporation, one witness was examined as R.W.1 and no document was marked on their side.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred due to the rash and negligent driving of the driver of both the vehicles and therefore, fixed the liability at 50:50 and directed the appellant/Transport Corporation and the second respondent/Insurance Company to pay the compensation of Rs.1,66,900/-.

6. Against which, the appellant/Transport Corporation has filed this present appeal challenging the quantum as well as the liability to pay compensation.

7. Though the appeal has been filed by the appellant/Transport Corporation challenging the liability as well as the Quantum, at the time of argument, the learned counsel for the appellant restricts his argument with regard to liability.

8. The learned counsel for the appellant submitted that the Tribunal failed to note that F.I.R was registered only as against the Driver of the car and after investigation, he was charge sheeted and there is no evidence to show that the Driver of the appellant/Transport Corporation was responsible for the accident. Therefore, the Tribunal erred in fixing the contributory negligence on the part of the driver of the Transport Corporation and hence, the award passed by the Tribunal warrants interference by this Court.

9. Per contra, the learned counsel for the first respondent/claimant submitted that based on the evidence and after considering the documents only, the Tribunal had fixed the contributory negligence and awarded compensation and therefore, there is no infirmity in the said finding. In support of his contention, he would draw the attention of this Court to Paragraph No.9 of the award of the Tribunal, wherein it has been held as follows:

"... In this case, the rough sketch prepared by the investigation officer in criminal case, is very essential to analyse the fact that by whom the accident was taken place. But, none of the party have taken steps to produce



the same. Under these circumstances, it is decided from the available material records that the accident was occurred due to the rash and negligent driving of the drivers of the both 1st and 4th respondents..."

10. Heard the learned counsel appearing on both sides and perused the materials available on record.

11. A perusal of the award passed by the Tribunal clearly shows that the Tribunal has discussed in detail and found that both the drivers of the Car as well as the Transport Corporation bus are equally responsible for the accident and therefore, fixed the contributory negligence and there is no infirmity in the award passed by the Tribunal and the same does not require interference at the hands of this Court.

12. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 15.06.2012 passed in M.C.O.P.No.1309 of 2007 on the file of the Motor Accident Claims Tribunal, IV Additional Sub-Judge, Madurai, is confirmed. The appellant/Transport Corporation and the third respondent/Oriental Insurance Company, are directed to deposit their respective shares with proportionate interests and costs, within a period of four weeks from the date of receipt of a copy of this judgment, if not already deposited and on such deposit being made, the first respondent claimant permitted to withdraw the entire award amount with accrued interests and costs. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To,
1.The IV Additional Sub Judge,
Motor Accident Claims Tribunal,
Madurai.

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

+1cc to Mr.D.SIVARAMAN Advocate in SR. NO.66652
+1cc to Mr.C.JAWAHAR RAVINDRAN Advocate in SR. No.66519
+1cc to Mr.A.JOSEPH JERRY Advocate in SR. No.66631

PM

JS/SKN.RSK/SAR.3/16.08.2017/2P-6C