

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2018

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A. No.2519 of 2005

and

C.M.P.No.13286 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram. .. Appellant/1st Respondent

Versus

1.Senthamizhselvi
2.Senthil
3.Minor.Purushothaman
[Minor Rep.by its Mother &
Guardian R1]
4.Thailammal
5.B.Gandhilal

6.The Divisional Manager,
United India Insurance Co.Ltd.,
46, 51 T.K.M.Complex,
I Floor, Katpadi Road,
Vellore. .. Respondents/Petitioners
& Respondents 2 & 3

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 30.12.2004 made in M.C.O.P.No.40/2003, Sub Court No.181/2000 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Villupuram.

For Appellant : Mr.S.V.Vasanthakumar
For Respondents : Mr.R.Raji for RR1 to 3
for Mr.S.Saravanakumar
Mr.N.Vijayaraghavan for R5

J U D G M E N T

This civil miscellaneous appeal has been preferred against the judgment and decree passed in M.C.O.P.No.40/2003 on 30.12.2004. The appellant herein is a Managing Director, Tamil Nadu State Transport Corporation.

2.The brief facts of the claim application is as follows:-

On 25.08.1999, at about 5.30 pm, the deceased Thangavel was travelling in the Maruthi Van bearing Registration No.TN 22 W9528, owned by the second respondent. The said vehicle was driven by its driver in a rash and negligent manner and at the same time, the bus belongs to the first respondent which was also driven in a rash and negligent manner and both the vehicles dashed against each other, as a result, the deceased Thangavelu died. The claimants being the LR's of the deceased, claimed Rs.10 lakhs as compensation.

3.The Transport Corporation has averred in the counter statement that on seeing the van came in the opposite direction in a rash and negligent manner, the driver swerved the vehicle to the left side of the road and stopped. In spite of that, the said van came in a rash and negligent manner and hit against the bus. Hence, the negligence was on the part of the driver of the van. The third respondent insurance company has also filed the counter statement, by stating that it is the driver of the transport bus which caused accident. Hence, the Transport Corporation has to pay the compensation.

4.The Tribunal after analyzing the evidence and documents has given finding based on the evidence of eye witness P.W.2 Rajendran, that the District Court, Villupuram in related case in M.C.O.P.No.226 of 2000 has observed the said accident has occurred due to the rash and negligent driving of the driver of the bus, the accident occurred and no way the driver of the van is liable for the accident and hence by observing the evidence of the said eye witness, the Tribunal has fixed the liability on the transport corporation.

5.Aggrieved against the said liability, the transport corporation has preferred this appeal.

6.The transport corporation has made this appeal on the ground that the evidence of P.W.2 who is the employee under third respondent company would not have been considered as a eye witness and further stated that no police officer or eye witness was examined with regard to prove the negligence on the part of the driver of the bus. It is the driver of the van who had driven the vehicle in a rash and negligent manner. But the Tribunal has failed to make note of the same. With regard to other aspects regarding age, occupation and income considered by the Tribunal also disputed by the appellant transport corporation.

7. Heard both sides and perused the materials available on record.

8. On a perusal of the records, it is observed that Ex.P1 FIR was preferred by one Rajendran, the evidence and the documents reveals the fact that the Transport Corporation bus which came in the opposite direction was driven by its driver by over taking another vehicle, hit against the van. The passengers who travelled in both the vehicles have sustained severe injuries and the two persons one Panneerselvam and Thangavel died on the spot. Ex.P2 is the Motor Vehicle Inspection report and the said witness also examined before the Tribunal.

9. Hence, it is seen that based on the evidence and also the documents, the Tribunal has fixed the liability on the appellant for the rash and negligent driving on the part of the driver of the bus, which resulted in the accident. Since the appellant has argued only on the point of liability, this Court by taking into consideration, the evidence and documents and also the observation made by the Tribunal, is of the view that the findings of the Tribunal with regard to the liability is proper in that aspect and does not require any interference.

10. In the result, the civil miscellaneous appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11. Accordingly, the appellant/Transport Corporation is directed to deposit the entire award amount, in respect of above Appeal as per the order of this Court, with interest and costs, before the Tribunal, after adjusting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the same to the claimants bank account through RTGS within one week thereon.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

AT

To

1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Villupuram.

2. The Section Officer,
V.R. Section,
High Court,
Madras - 104.

+1 CC to Mr.M.B. Gopalan Advocate sr 68256.

+1 CC to Mr.S.V.Vasantha Kumar, Advocate sr 67878.

+1 CC to Mr.S.Saravanakumar , Advocate sr 67941.

C.M.A. No.2519 of 2005

SAI (CO)
SP(08/07/2019)



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