

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.3948 of 2005

and

C.M.P.No.19512 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram.

... Appellant/Respondent

.Vs.

Senthil

...Respondent/Claimant

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award passed by the Motor Accidents Claims Tribunal, (Fast Track Court), Kallakurichi in MCOP.No.300 of 2002, dated 25.05.2004.

For Appellant : Mr.S.V.Vasanthakumar

For Respondent : No appearance

JUDGMENT

The present appeal is filed by the Managing Director, Tamil Nadu State Transport Corporation, Villupuram under Section 173 of the Motor Vehicles Act, 1988.

2.The brief facts of the case of the respondent/claimant are as follows:

On 14.07.1998 at about 08.30 pm, when the respondent/claimant was about to board the bus bearing Registration No. TN 32 N 0125 belonging to the Tamil Nadu State Transport Corporation, the driver of the bus took the bus rashly and negligently without any signal from the conductor, as a result of which, the respondent/claimant fell down from the bus and sustained injuries all over his body. He was immediately rushed to the Government Hospital, Kallakurichi.

3.According to the respondent/claimant, the rash and negligent driving of the driver of the appellant was the cause of the accident and that they are liable to pay a compensation of Rs.50,000/- to him. The appellant/respondent filed a counter denying all the allegations of the respondent/claimant. The learned Judge, Motor Accidents Claims Tribunal, after analysing the entire evidence on record, awarded a sum of Rs.29,704/- together with interest at the rate of 9% per annum to the respondent/claimant vide decree and judgment dated 25.05.2004.

Aggrieved over the same, the respondent/claimant namely the Managing Director, Tamil Nadu State Transport Corporation, Villupuram, has filed the present appeal on the following grounds:

(i) The Tribunal has committed an error in fixing 70% liability on the appellant and 30% liability on the claimant, when there is negligence on the part of the claimant alone.

(ii) The Tribunal failed to consider the evidence of R.W.1, the driver of the bus.

(iii) No documentary evidence is adduced to prove the occupation and income of the claimant.

4.A perusal of the orders passed by the learned Judge, Motor Accidents Claims Tribunal and the evidence adduced on both sides clearly shows that the respondent/claimant travelled on the foot board of the bus bearing Registration No. TN 32 N 0125. Therefore, negligence was fixed in the ratio 70:30 (i.e), 70% on the part of the Tamil Nadu State Transport Corporation and 30% on the part of the respondent/claimant. Though the respondent/claimant was negligent by travelling on the foot board of the bus, the driver of the bus is also equally responsible for the accident because he should have ensured that all the passengers are inside the bus and nobody is traveling on the foot board before driving the bus. He should have asked the persons who are travelling on the foot board to enter into the bus. Since he has failed in his duty, fixing 70% negligence on the part of the driver is perfectly right. I do not find any reason to interfere with the observations made by the court below. Therefore, the decree and judgment passed by the Motor Accidents Claims Tribunal, (Fast Track Court), Kallakurichi in MCOP.No.300 of 2002, dated 25.05.2004 is upheld.

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

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,
Fast Track Court, Kallakurichi

+1cc To M/s.S.V.Vasanth Kumar, Advocate, Sr.No.77593

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