

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.08.2018
CORAM
THE HONOURABLE MS. JUSTICE ABDUL QUDDHOSE
C.M.A.No.1379 of 2008

The Managing Director
Tamil Nadu State Transport Corporation Ltd.
Vellore.

... Appellant/1st Respondent

..Vs..

- 1.A.Subramani ... 1st Respondent/Petitioner
2.G.K.Dhandapani (Given up) ... 2nd Respondent/2nd Respondent
3.The Divisional Manager
United India Insurance Company Ltd
T.K.M Complex
Katpadi Road
Vellore - 4 ... 3rd Respondent/3rd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Decree and Judgment in M.A.C.T.O.P.No.218 of 2003 dated 18.09.2006 passed by the Motor Accident Claims Tribunal cum Sub-Ordinate Court, Vellore.

For Appellant : Mr.K.J.Sivakumar

For Respondent 1: No appearance

For Respondent 3: Mr.S.Arun Kumar

J U D G M E N T
सत्यमेव जयते

The instant appeal has been filed challenging the Judgment and decree dated 18.09.2006 passed by the Motor Accident Claims Tribunal cum Sub-Ordinate Court, Vellore in M.A.C.T.O.P No.218 of 2003.

The brief facts leading to the filing of the instant appeal are as follows.

2. On 28.11.2001, at about 08:15 a.m., the first respondent was traveling as a passenger in the bus bearing Registration No.TN-23-N-0776 owned by the Appellant. The first respondent and some other passengers in the bus sustained injuries on account of the accident in which a lorry bearing Registration No.AAC 2952 collided with the bus. The first respondent preferred a

claim before the Motor Accident Claims Tribunal seeking a compensation of Rs.3,00,000/- from the Appellant/Transport Corporation as well as the owner of the lorry and its insurance company. The Motor Accident Claims Tribunal by its judgment and decree dated 18.09.2006 directed the Appellant to pay the first respondent a sum of Rs.92,000/- together with interest at the rate of 9% per annum from the date of claim till the date of realization and dismissed the claim against the second and third respondents.

3. Aggrieved by the Award dated 18.09.2006 passed by the Motor Accident Claims Tribunal, the instant appeal has been filed by the Appellant / Transport Corporation.

4. Heard Mr.K.J.Siva Kumar learned counsel for the Appellant and Mr.S.Arun Kumar learned counsel for the third respondent. Despite service of notice on the first respondent/ claimant and his name having been printed in the cause list today, none appears on the side of the first respondent.

5. According to the learned counsel for the Appellant, the Tribunal has erred in concluding that the accident took place only due to the carelessness and negligence of the driver of the bus. The learned counsel for the Appellant would further contend that the Tribunal has erred in awarding Rs.35,000/- towards disability, Rs.35,000/- towards loss of earning power, Rs.9,000/- towards loss of earning, Rs.1,000/- towards transportation, Rs.1,000/- towards nourishment, Rs.1,000/- towards damages to cloth and articles, Rs.2,000/- towards medical expenses, Rs.8,000/- towards pain and suffering and other expenses without any documentary evidence.

6. The learned counsel would further contend that the Tribunal has failed to consider the age of the first respondent/ claimant while applying multiplier and ought to have adopted lesser years of multiplier.

7. Per contra, learned counsel for the third respondent would submit that there is a clear finding given by the Tribunal that only due to the rash and negligent driving by the driver of the bus, the accident had happened and therefore, being the insurer for the lorry, they are not liable to compensate the first respondent as rightly held by the Tribunal.

8. This Court has considered the materials available on record and after perusing and examining the impugned Award which is the subject matter of challenge and after hearing the submissions of the respective counsels observes the following:

a. First Information Report has been lodged only against the bus driver which was marked as Ex.P1 and the charge sheet was also filed only against the bus driver which was marked as Ex.P3. It is also the case of the first respondent in his claim petition that only due to the rash and negligent driving by the

driver of the bus, the accident had happened, resulting in causing injuries to the first respondent/claimants.

b. The nature of injuries sustained by the first respondent on account of the accident is undisputed. The percentage of disability namely 35% is also undisputed. The first respondent has filed 8 documents namely exhibits P1 to P8 before the Tribunal. The first respondent has also examined himself as PW1. There is a clear finding given by the Tribunal based on the oral and documentary evidence that only the driver of the bus is at fault.

c. The Tribunal has rightly awarded compensation under various heads to the first respondent amounting to a total sum of Rs.92,000/-. This Court does not find any infirmity in the Award of compensation under the various heads to the first respondent.

9. For the foregoing observations, this Court is of the considered view that there is no merit in the instant appeal.

10. Accordingly, the Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sni/nl

To

The Motor Accident Claims Tribunal
cum Sub-Ordinate Court,
Vellore.

Copy to:

The Section Officer,
VR Section,
High Court, Madras-104

+1cc to Mr.S.Arun Kumar, Advocate sr.no.58141

C.M.A.No.1379 of 2008

ssv(co)
nr 01/10/2018