



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

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C.M.A(MD)No.1033 of 2014

and

M.P(MD)No.1 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Tiruchirappalli Division,
Collector Office Road,
Tiruchirappalli.

.. Appellant/1st Respondent

-Vs-

1.Sadhikali

.. 1st Respondent / Petitioner

2.Indumathi

3.The Branch Manager,
Sreeram General Insurance Company Limited,
No.406, Bharathiyar Road,
Near Bharath Petroleum,
Thala Theru,
Karaikkal.

.. Respondents 2 & 3/Respondents 2 & 3

Prayer:- Civil Miscellaenous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree, dated 28.04.2014 passed in M.C.O.P.No.272 of 2011 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Pudukkottai.

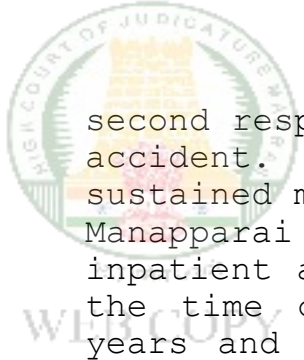
For Appellant : Mr.P.Prabhakaran

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation against the Judgment and Decree, dated 28.04.2014 made in M.C.O.P.No.272 of 2011 by the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Pudukkottai.

2. Short facts necessary for the disposal of this appeal, are as follows:

(i) On 05.09.2011 at about 01.00 p.m., the first respondent/claimant was travelling in a bus belonging to the appellant/Transport Corporation bearing Registration No.TN-45-N-2046 as passenger from Trichy to Madurai. At that time, near Elanjamedu, the bus belonging to the appellant/Transport Corporation, driven by its driver in a rash and negligent manner without following the rules, dashed against the bus belonging to the



second respondent bearing Registration No.Py-2-K-4282 and caused the accident. Due to the said impact, the first respondent/claimant sustained multiple injuries and he was taken to Government Hospital, Manapparai and took treatment from 05.09.2011 to 10.09.2011 as inpatient and thereafter, he was taking treatment as outpatient. At the time of accident, the first respondent/claimant was aged 38 years and was doing a artificial diamond defile workshop business and earning a sum of Rs.6,000/- per month. Due to the said injuries, he was not able to do his work as he was doing earlier. The First Information Report was registered against the driver of the appellant/Transport Corporation stating that the accident had occurred only due to the rash and negligent driving by the driver of the appellant/Transport Corporation. Therefore, the first respondent/claimant filed a claim petition, claiming a sum of Rs.5,00,000/- (Rupees Five Lakhs only) as compensation.

(ii) The second respondent/owner of the offending vehicle remained exparte before the Tribunal.

(iii) The third respondent/Insurance Company filed the counter statement denying all the averments stated in the claim petition and further stated that at the time of accident, the second respondent's driver did not possess any valid driving licence and they are not liable to pay compensation and prayed for the dismissal of the claim petition.

(iv) The appellant/Transport Corporation filed the counter statement denying all the averments stated in the claim petition and prayed for the dismissal of the claim petition.

(v) Before the Tribunal, on the side of the claimant, P.W.1 and was examined and Exs.P.1 to P.21 were marked. On behalf of the appellant/Transport Corporation, one Rajmohan was examined as R.W.1 and no documentary evidence was let in.

(vi) On contest, the Tribunal, considering the pleadings, oral and documentary evidence let in on either side, found that the accident occurred only due to the rash and negligent driving of the driver of the appellant/Transport Corporation and fastened the liability on the appellant/Transport Corporation and awarded a sum of Rs.13,000/- (Rupees Thirteen Thousand only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs.

(vii) Aggrieved over the award of the Tribunal, the appellant/Transport Corporation has filed the present appeal.

3. Heard the learned counsel for the appellant/Transport Corporation and perused the materials available on record.

4. The learned counsel appearing for the appellant/Transport Corporation raised various grounds with regard to fixing of



negligence on the part of the driver of the bus belonging to the appellant/Transport Corporation.

5. From the materials available on record, it is seen that the award under challenge is a common award in respect of M.C.O.P.Nos.272, 268, 269, 270, 271, 282 and 283 of 2011. The appellant/Transport Corporation has filed seven appeals in C.M.A(MD) Nos.1033 to 1039 of 2014, against the award in respect of the said M.C.O.Ps'. Out of the seven appeals, the appellant/Transport Corporation has settled the amounts in respect of six C.M.As', viz., C.M.A(MD)Nos.1034, 1035, 1036, 1037, 1038 and 1039 of 2014 before the Lok Adalat, admitting their negligence. The remaining C.M.A(MD) No.1033 of 2014 is pending before this Court.

6. In view of the same, the grounds raised with regard to negligence is not maintainable now.

7. As far as the quantum of compensation is concerned, it is seen that the first respondent/claimant was in hospital for six days and underwent treatment including stitches in the head and hands.

8. Considering these facts, the Tribunal has awarded lumpsum amount of Rs.13,000/- along with interest at the rate of 7.5% interest from the date of claim petition till the date of realisation and awarded the just and reasonable compensation and they are not excessive.

9. In the result, this Civil Miscellaneous Appeal is dismissed. The appellant/Transport Corporation is directed to deposit the entire award amount to the credit of M.C.O.P.No.272 of 2011, on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate, Pudukkottai, less the amount already deposited, if any, along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation with proportionate costs, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the Tribunal is directed to transfer the award amount to the Personal Savings Bank Account Number of the first respondent/claimant, after getting his Account Details, within a period of two weeks thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CRL.SIDE)

/True Copy/

Sub Assistant Registrar(CS-IV)



To

The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate, Pudukkottai

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

- 1 CC TO Mr.P.Prabhakaran , ADVOCATE IN SR No. 90410

PS

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C.M.A (MD) No.1033 of 2014
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