



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 25.07.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A.(MD).No.938 of 2014
and M.P.(MD)No.1 of 2014

WEB COPY

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Thiruvalluvar House,
Pallavan Salai,
Chennai.

.. Appellant /Respondent

Vs.

G.Ramamoorthy

.. Respondent/Petitioner

Prayer:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order passed in M.C.O.P.No.38 of 2012 on the file of the Motor Accident Claims Tribunal, Additional District Court, Virudhunagar dated 05.10.2012.

For Appellant : Mr.K.Sudalaiyandi

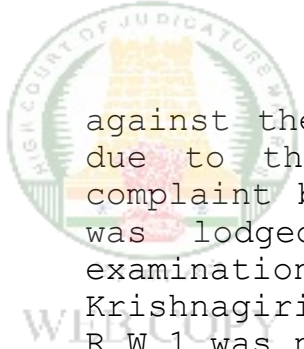
For Respondent : Mr.D.Sakkaravarthi

JUDGMENT

The manner of accident is that the respondent/claimant was driving the bus bearing registration No. KA-41-9919 from Madurai to Bangalore. While he was proceeding on Krishnagiri to Dharmapuri National Highway at KRP Dam road bridge, he dashed against another bus bearing registration No. TN-01-N-7844 belonging to the appellant which was parked in the middle of the road without any light or signal. In the said accident, he sustained grievous injuries on his right leg, chin, left leg thumb and other injuries. He filed a claim petition in M.C.O.P.No.38 of 2012 on the file of the Motor Accidents Claims Tribunal,/Additional District Court, Virudhunagar, and the Tribunal considering the oral and documentary evidence adduced on either side, directed the appellant to pay the compensation of Rs.1,40,300/- with interest at 7.5% per annum. Aggrieved by the said award, the appellant has filed this appeal, challenging negligence.

2. Heard the learned counsel for the parties and perused the materials available on record.

3. Perusal of record shows that there is no evidence to show that the driver of the appellant's bus parked the bus with blinking parking lights on. Though R.W.1-driver of the bus has deposed that without seeing the appellant's bus which was parked on the road, the respondent drove the bus in a rash and negligent manner and dashed



against the parked bus and therefore, the accident occurred solely due to the fault of the respondent and he only lodged Ex.P.1 complaint before the police, perusal of Ex.P.1 shows that the same was lodged by the conductor and that R.W.1 himself in his examination, had admitted that at the time of accident, he went to Krishnagiri depot. Thus, it is clear that at the time of accident, R.W.1 was not at all present in the scene of occurrence.

4. Therefore, in my considered opinion, as rightly held by the learned Judge, R.W.1 is not a competent person to speak about the rash and negligent driving of the respondent. The learned Judge has rightly appreciated the evidence on record and had come to the above finding which does not warrant any interference by this Court.

5. The appellant / Transport Corporation is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, to the credit of the claim petition within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant is permitted to withdraw the award amount without filing formal petition before the Tribunal.

6. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected M.P.(MD) NO. 1 of 2014 is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1.The Additional District Judge,
The Motor Accidents Claims Tribunal,
(Additional District Court), Virudhunagar

2.The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court, Madurai. **(2 copies)**

+1CC to Mr.K.Sudalaiyandi, Advocate, SR.No. 74774

+1CC to Mr.D.Sakkaravarthi, Advocate, SR.No.75024

C.M.A. (MD) .No.938 of 2014
and M.P. (MD) No.1 of 2014
25.07.2018

CM

ES/RP/SAR 4/01.10.2018/2P/6C