



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2018

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A (MD) No.679 of 2018

and

C.M.P. (MD) No.7819 of 2018

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kottam 1 Kumbakonam Division,
Periyamilaguparai,
Trichy District.

... Appellant/Respondent

Vs.

Vasuki

... Respondent/Petitioner

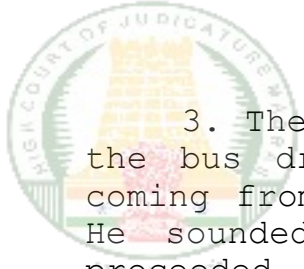
PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the judgment and award made in M.C.O.P.No.626 of 2013 dated 17.04.2014 on the file of Motor Accidents Claims Tribunal, Special Sub Court, Thanjavur.

For Appellant : Mr.D.Sivaraman

J U D G M E N T

The appellant is the respondent in M.C.O.P.No.626 of 2013, on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Thanjavur. The respondent filed the said Claim Petition claiming a sum of Rs..2,00,000/- for the injuries sustained by her in the accident that took place on 28.04.2013.

2. According to the respondent, she travelled as a passenger in the bus belonging to the appellant on 28.04.2013. The driver of the bus drove the bus in a rash and negligent manner and due to the same, the bus capsized into a Channel. The respondent sustained grievous injuries. The respondent was admitted in the Government Medical College Hospital, Thanjavur, and took treatment from 28.04.2013 to 01.05.2013 as in-patient and subsequently, she took treatment as out-patient. Due to the injuries sustained, the respondent could not do the work as she was doing before the accident. The accident occurred only due to the rash and negligent driving by the driver of the bus. The First Information Report was registered against the driver of the bus and hence claimed a sum of Rs.2,00,000/- as compensation.



3. The appellant filed counter and contended that the driver of the bus drove the bus cautiously. While so, he noticed the car coming from the opposite direction in a rash and negligent manner. He sounded horn and alarmed the same. The driver of the car proceeded rash and negligently. In order to avoid dashing against the car, the driver of the bus turned the bus to the left side and due to the same bus capsized. The driver of the bus belonging to the appellant was not responsible in the accident and prayed for dismissal.

4. Before the Tribunal, the respondent/claimant has examined herself as P.W.1 and Doctor Jayabalan as P.W.2 and marked 7 documents as Ex.P.1 to Ex.P.7 and the respondent did not let in any evidence and mark any document.

5. The Tribunal, considering the pleadings and both oral and documentary evidence let in by the parties, held that the driver of the bus is responsible for the accident and considering the nature of injuries and evidence of P.W.2, awarded a sum of Rs.1,43,000/- as compensation. Challenging the said award, the appellant has come out with the present appeal.

6. Heard the learned counsel appearing for the appellant and perused the materials on record.

7. The contention of the learned counsel for the appellant is that the accident did not occur due to the negligence of the driver of the appellant, but it was only due to the negligence of the driver of the Car which was coming in the opposite direction is not correct. The Tribunal, considering Ex.P.1 the First Information Report and evidence of P.W.1, held that the accident occurred only due to rash and negligent driving of the driver of the Car. The appellant has not let in any evidence to disprove the same and did not examine the Driver of the bus.

8. From the award of the Tribunal, it is seen that the Tribunal, considering the nature of injuries and Ex.P.6 Disability Certificate, awarded a sum of Rs.87,000/- towards disability, Rs.13,500/- towards loss of income, Rs.20,000/- towards pain and suffering, Rs.12,500/- towards medical expenses, Rs.5,000/- towards transportation expenses and Rs.5,000/- towards extra nourishment. The Tribunal awarded the compensation on different heads. The said compensation is just and proper and there is no error in the said finding.

9. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected C.M.P.(MD)NO.7819 of 2018 is closed.

10. The appellant Transport Corporation is directed to deposit the entire award amount with interest and costs to the credit of M.C.O.P.No.626 of 2013 on the file of the Motor Accidents



Claims Tribunal, Special Sub Court, Thanjavur, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent is permitted to withdraw the amount with interest by making necessary application before the Tribunal.

Sd/-

Assistant Registrar(CS-III)

WEB COPY

/True Copy/

Sub Assistant Registrar(CS-I)

To,

1.The Motor Accidents Claims Tribunal,
Special Subordinate Judge, Thanjavur.

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

+1cc to Mr.D.Sivaraman, Advocate Sr.No.82411

CM

VB/SKN/SAR1/24.12.2018/3P/5C

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