

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.1071 of 2005 and
C.M.P.No.6041 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division,
Vellore Region,
Rangapuram, Vellore - 9.

(Cause title accepted vide order of Court
dated 28.03.2005 and made in
CMP.No.4045 of 2005) ..Appellant/2nd Respondent

..Vs..

1.Shanmugam ..1st Respondent/Petitioner

2.Ilangovan ..2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988 against the decree and Judgment
dated 26.07.2004, in MCOP.No.188 of 1997 on the file of the
Motor Accidents Claims Tribunal, Arani.

For Appellant : Mr.S.V.Vasanth kumar

For Respondents : Mrs.R.Sreevidhya for R2
No appearance for R1

JUDGMENT

The appellant, the Tamil Nadu State Transport Corporation
is the second respondent in M.C.O.P.No. 188 of 1997 on the file
of the Motor Accidents Claims Tribunal, Arani. The first
respondent/claimant filed a claim petition under Section 166 of
the Motor Vehicles Act, 1988 seeking compensation of Rs.75,000/-
for the injuries sustained by him in a road accident that took
place on 20.08.1995.

2. According to the first respondent/claimant, on 20.08.1995, when he was travelling in a bullock cart belonging to one Parasurama Gounder from Thennankur to Vanthavasi, a speeding bus bearing Registration No. TN 23 N 0585 belonging to the Tamil Nadu State Transport Corporation, hit him, as a result of which, he sustained grievous injuries all over his body. It is his further contention that the rash and negligent driving of the driver of the bus bearing Registration No. TN 23 N 0585 was the cause of the accident and therefore, the Tamil Nadu State Transport Corporation is liable to pay compensation to him.

3. The Tamil Nadu State Transport Corporation contested the claim petition and the Motor Accidents Claims Tribunal, Arani after analysing the evidence on record, awarded compensation of Rs.40,500/- to the first respondent/claimant together with interest at the rate 9% per annum.

4. Aggrieved over the orders passed by the tribunal, the Tamil Nadu State Transport Corporation have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Mr. S.V. Vasantha kumar, learned counsel appearing for the appellant would contend that since the bullocks went berserk on road on hearing sound horn of the bus, the accident took place and however, the tribunal has wrongly fixed the negligence on the part of the driver of the bus. He would also contend that the award passed by the tribunal is on the higher side.

6. A perusal of the records shows that the Sub Inspector of Police, Vanthavasi Police Station has registered FIR against the driver of the bus bearing Registration No. TN 23 N 0585 and after completing investigation, laid a charge sheet (Ex.P3) against the driver of the said bus. The evidence of the first respondent/claimant clearly shows that the driver of the bus was responsible for the accident. In view of the evidence adduced on the side of the first respondent/claimant, the tribunal has clearly held that the driver of the bus belonging to the Tamil Nadu State Transport Corporation was the cause of the accident. All the observations made by the tribunal in this regard are perfectly in order and therefore, I do not see any reason to interfere with the same.

7. A perusal of the wound certificate (Ex.P2) shows that the first respondent/claimant had sustained the following injuries:

- "1. An incised wound over the right lacerate injury scapular 3" x 1 ½" ½" bleeding side due.
2. An abrasion over the right side by upper 1/3rd

behind 1" x 1/2" 3. An abrasion over the right back of the chest 1" x 1/2" blood."

Dr.Ramalingam (PW3) has assessed the partial permanent disability as 60%. However, the tribunal has reduced the percentage of disability as 30% stating that Dr.Ramalingam is not qualified to assess the partial permanent disability and awarded compensation of Rs.30,000/- towards partial permanent disability. The tribunal has further awarded a sum of Rs.2,000/-, Rs.1,000/-, Rs.1,500/- and Rs.6,000/- towards pain and sufferings, extra nourishment, loss of income and for the injuries sustained by him. The various heads under which the tribunal awarded compensation is extracted hereunder:

S.No	Head	Amount granted
1.	Partial permanent disability	Rs.30,000/-
2.	Pain and sufferings	Rs.2,000/-
3.	For the Injuries sustained by the first respondent/claimant	Rs.6,000/-
4.	Extra nourishment	Rs.1,000/-
5.	Loss of income	Rs.1,500/-
	Total	Rs.40,500/-

8. It is pertinent to point out that the first respondent/claimant did not file any appeal or cross objections questioning the quantum of compensation awarded by the tribunal and the award also cannot be said to be on the higher side.

9.In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently the connected Miscellaneous Petition is also dismissed.

(ii) The orders passed by the tribunal is upheld.

(iii) The Tamil Nadu State Transport Corporation is directed to pay the entire compensation awarded by the tribunal (less the amount already deposited by them) to the credit of MCOP.No.188 of 1997 on the file of the Motor Accidents Claims Tribunal, Arani within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the first respondent/claimant is at liberty to withdraw the same, after following due process of law.

Sd/-

Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

Mbi

To

1.The Motor Accident Tribunal,
Arani

2.The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division,
Vellore Region,
Rangapuram, Vellore - 9.

3 The Section Officer,
VR Section, Madras High Court, Chennai

+1cc to Mr.S.V.Vasanthakumar, Advocate SR.No.8843

C.M.A.No.1071 of 2005 and
C.M.P.No.6041 of 2005

CNR(CO)

GMV(08/05/2019)

सत्यमेव जयते

WEB COPY