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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1682 of 2006
and C.M.P.No.7385 of 2006

The Managing Director
Bangalore Transport Service
Indira Nagar, Bangalore-38.

... Appellant/2nd Respondent

Vs

1.A.R.Arif Jabeen

..1st Respondent/Petitioner

2.Narayanaswamy

3.M/s.Country Wide
No.8/4, Seema Building
Race Course, Coimbatore.

4.Venkatesan ... Respondents 2 to 4/Respondents 1, 3 & 4

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 20.01.2005 made in MCOP No.1110 of 1998 on the file of the Motor Accidents Claims Tribunal (Fast Track Court-IV), Tirupur.

For Appellant : Mr.V.Ramesh

For Respondents :Mr.T.Murugamanickam,
Senior Counsel for R1
for M/s.Zeenath Begum

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.2,50,000/- towards compensation to the first respondent, due to the damages caused to her vehicle, in a motor vehicle accident.

2.The case in brief, is as follows:

On 06.01.1998, at about 4.00 p.m., the fourth respondent, driver of Bangalore Transport Service Bus bearing Reg.No.MEF-353, drove the said bus in a rash and negligent manner, from South to North direction, in the Old Madras Road, Ulsoor. When the bus reached the Corporation Ward Office, it collided with



the first respondent's Maruti car bearing Reg.No.PY-01-H-6356 and further collided with an Auto-rickshaw and another bus. Due to the said impact, the Maruti car of the first respondent got completely damaged and the driver of the car sustained simple injuries. The first respondent filed a claim petition before the Tribunal seeking compensation for the damages caused to the car. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.2,50,000/- with interest at the rate of 9% per annum from the date of petition.

3.Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the the Tribunal has erred in awarding the compensation on the basis of false quotation, viz. Ex.P12, given by P.W.3 in collusion with the claimant. It is also submitted that the first respondent has neither obtained the report of the Motor Vehicle Inspector, nor examined the Motor Vehicle Inspector as a witness in the case. He also submitted that the driver of the bus has been acquitted by the Criminal Court finding him not guilty of rash and negligent driving.

5.The learned counsel for the first respondent / claimant has submitted that the Tribunal has correctly considered the materials and evidence available on record and has awarded the compensation and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel for the appellant and the learned counsel for the first respondent / claimant, and perused the materials available on record carefully and meticulously.

7.With regard to the negligence on the part of the driver of the bus, the fourth respondent herein, the Tribunal analysed Ex.R1-Charge Sheet, from which it has been found that the learned Metropolitan Magistrate, on 09.08.2002, has concluded the proceedings against the fourth respondent herein and released him, but he has not been released by declaring that he is not an accused. Hence, considering Ex.P1-First Information Report and his English version marked as Ex.P16, Ex.P2-Charge Sheet and Ex.P3-Rough Sketch, Ex.P5-Mahazar in Kannada language, Ex.P6-Mahazar in English language and Ex.P7-Wound Certificate pertaining to the injuries suffered by the driver of the car and also other exhibits, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus. This Court is not inclined to interfere with such factual finding arrived at by the Tribunal.



8. With regard to the quantum of compensation, the Tribunal has relied upon Ex.P10-Photograph showing the damages caused to the Maruti car, Ex.P8-Motor Vehicle Inspector's Report, Ex.P12-Quotation given for rectifying the damages caused to the car by the Maruti Workshop, the Tribunal has awarded a sum of Rs.2,50,000/- towards damages to the car. The Tribunal has also observed that even though the damages caused to the car is more, it has not become possible for the Tribunal to exactly determine the compensation towards the damages caused to the car, in view of the fact that neither at the time of accident, nor at the time of giving advertisement in a newspaper for selling the car, the owner of the car had given proper intimation to the Insurance Company for assessing the damages.

9. The Tribunal has correctly considered the materials and evidence and awarded Rs.2,50,000/- for the damages caused to the car. Hence, the compensation awarded by the Tribunal, does not require any interference by this Court.

10. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Transport Corporation is directed to deposit the award amount with interest, as ordered by the Tribunal, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

KM

To

1. The Motor Accidents Claims Tribunal
(Fast Track Court-IV), Tirupur.

2. The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.M/s.Zeenath Begum, Advocate SR.No.50006

C.M.A.No.1682 of 2006
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MP (CO)
GMY (23/01/2020)