

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2704 of 2006

and

M.P.No.1 of 2006

Tamil Nadu State Transport
Corporation Ltd.,
Coimbatore Div.I. Rep. by its
Managing Director ... Appellant /2nd Respondent

Vs.

1.R.Vinayaki
2.S.K.Mani ... Respondents/Petitioner and
1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 17.06.2004 made in M.C.O.P.No.9 of 2003 on the file of the Motor Accidents Claims Tribunal, Sub Judge, Udhagamandalam.

For Appellant : Mr.S.V.Vasantha Kumar

For R2 : given up

J U D G M E N T

This Civil Miscellaneous Appeal has been filed as against the order and decree dated 17.06.2004 passed by the Motor Accident Claims Tribunal, Sub Court, Uthagamandalam, in MCOP.No.9 of 2003.

2.The facts in nutshell are as follows:

On 4.3.2001, the first respondent and her husband were proceeding as pillion rider and rider in a motorcycle bearing Regn.No.TN43 N 0263 from Uthagamandalam Market to her residence. At about 8.15 pm, When the motorcycle was nearing Lovedale Junction, a bus bearing Regn.No.TN38 0206 belonging to the appellant transport corporation came in a rash and negligent manner and dashed against the motorcycle. Due to the said

impact, the first respondent and her husband fell down from the vehicle and sustained grievous injuries. Stating so, the first respondent filed a claim petition claiming a compensation of Rs.2,00,000/-. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant-Transport Corporation and accordingly, directed the appellant-Transport Corporation to pay a sum of Rs.49,222.34 with interest at 9%pa as compensation to the first respondent. Aggrieved over the same, the present appeal has been filed by the appellant-Transport Corporation.

3.The learned counsel appearing for the appellant contended that the rider of the motorcycle was also responsible for the accident, whereas the Tribunal has erred in coming to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus. The learned counsel further contended that the quantum of compensation awarded by the Tribunal is excessive and excessive.

4.Heard the learned counsel for the appellant and perused the materials available on record carefully.

5.Though the appeal was admitted way back in the year 2006, the appellant transport corporation has not taken proper steps to serve papers on the other side. However, considering the passage of time, this Court is inclined to proceed with the appeal on merits.

6.P.W.1/first respondent/claimant has deposed in her evidence that the accident had occurred due to the rash and negligent act on the part of the driver of the bus. Her evidence was substantiated by Ex.P1 First Information Report, which was registered against the driver of the bus. On the side of the appellant transport corporation, the driver of the bus was examined as R.W.1, who stated in his evidence that when the bus was standing, the husband of the first respondent/claimant drove the motorcycle rashly and negligently and dashed against the bus and hence, he alone was responsible for the accident. However, no document was produced to support his evidence. In the absence of any contra evidence, the Tribunal has believed the case of the first respondent/claimant and rightly rendered its findings that the accident had happened due to the rash and negligent driving of the driver of the bus and accordingly, fastened the liability on the appellant transport corporation, which this Court is not inclined to interfere.

7.As regards the quantum of compensation, the Tribunal has taken note of Ex.P4 wound certificate, Exs.P5, P6, P7, P8 and P9- hospital charges and medical bills and other documents and

the evidence of P.W1/first respondent/claimant and has observed that the first respondent/claimant did not sustain any permanent disablement and she sustained only simple injuries and hence, she was entitled to get compensation under No fault liability. Accordingly, the Tribunal has awarded Rs.25,000/-, besides granting Rs.5,000/- towards pain and suffering and Rs.19,222.34/- towards medical expenses, which, in the opinion of this Court, are just and very reasonable and hence, the same need not be interfered.

8.In the result, this Civil Miscellaneous Appeal is dismissed by confirming the award passed by the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant-Transport Corporation is directed to deposit the entire compensation amount, as awarded by the Tribunal, along with interest and costs, less the amount, already deposited if any within a period of four weeks from the date of receipt of copy of this judgement. On such deposit being made, the Tribunal shall transfer the same to the savings bank account of the first respondent/claimant through RTGS within a period of one week thereafter.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal,
Sub Judge, Udhagamandalam.

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

+1cc to Mr.S.V.Vasanthakumar , Advocate Sr.47435

C.M.A.No.2704 of 2006

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srg 19/10/2020