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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2019

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

C.M.A.No.2660 of 2005

and

C.M.P.No.11132 of 2005

Tamil Nadu State Transport Corporation
(Coimbatore Division II) Ltd.,
Chennimalai Road,
Erode

Rep. by its General Director ... Appellant/Petitioner

Vs.

1.S.Narashimma
2.S.Umadevi
3.The Oriental Insurance Co. Ltd.,
Divisional Office
Sri Krishna Complex
65, Jawahar Street,
Yanam, Pondicherry State. ... Respondents/Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 27.11.2003 made in M.A.C.T.O.P.No.1108 of 2001 on the file of the Motor Accident Claims Tribunal (Principal District Judge, Erode District).

For Appellant :M/s.S.V.Vasanthakumar

For Respondents :M/s.R.Srividhya
for R3

R1 & R2 set Ex-parte
before the Tribunal.

J U D G M E N T

This appeal is preferred by the Transport Corporation against the order and decree dated 27.11.2003 passed by the Motor Accident Claims Tribunal (Principal District Judge, Erode District) (in short, 'the Tribunal') in M.A.C.T.O.P.No.1108 of 2001.



2. The facts leading to the filing of this appeal are that on 03.05.2001 at about 00.30 a.m., when the bus bearing No. TN-33 N 0887 belonging to the Appellant-Transport Corporation was coming from Coimbatore to Erode, near Arasur Poultry Farm, the lorry bearing No. PY 04 3434, which was coming from the opposite direction and was driven by the first respondent -driver in a rash and negligent manner, dashed against the bus. As a result of the same, the bus capsized, due to which, it was completely damaged. Hence, the Appellant-Transport Corporation filed a claim petition seeking compensation of Rs.1,85,997.21. On examining the evidence let-in by the Appellant-Transport Corporation, the Tribunal dismissed the said claim petition vide order dated 27.11.2003. Hence, the appeal.

3. Heard both sides and perused the records.

4. To question the dismissal of their claim petition seeking compensation for the damages caused to the bus, in the accident that had occurred on 03.05.2001, the Appellant-Transport Corporation has preferred this appeal. They examined two witnesses viz., P.W.1 and P.W.2 and marked 7 documents viz., Ex.A1 to Ex.A7 before the Tribunal. However, no observation mahazar and rough sketch prepared by the Investigating Officer were produced. Further, except Ex.A1-F.I.R, no charge sheet filed against the driver of the lorry, i.e., the first respondent herein, was produced by the appellant Transport Corporation, to prove that the first respondent / driver of the lorry alone was responsible for the accident. It is to be noted that the first respondent due to the injuries sustained in the said accident, died on the spot itself. After taking note of the same, the Tribunal came to the conclusion that it could not be presumed that the driver of the lorry alone was causing the accident. That apart, having regard to the fact that the front portion of the lorry including cabin was stated to have been completely damaged, the Tribunal concluded that the accident had not happened due to the rash and negligent driving of the driver of the lorry. Having found so, the Tribunal ultimately, dismissed the claim petition filed by the appellant -Transport Corporation.

5. This Court finds no reason to interfere with the findings so rendered by the Tribunal, as the same is perfectly right and well considered the evidence adduced before it.



6. In fine, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mk

To

1.The Motor Accident Claims Tribunal
(The Principal District Judge)
Erode District.

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

+1 cc to M/s.R.Sreevidhya, Advocate, S.R.No.45430

+1 cc to M/s.S.V.Vasanthakumar, Advocate, S.R.No.45489

C.M.A.No.2660 of 2005

RK(CO)
SSM(24/09/2019)