

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.2878 of 2005
and
CMP.No.14983 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation,
Bharathipuram, Dharmapuri-5. Appellant/Respondent

...vs...

1.Yarab Respondent 1 Petitioner

2.Karnataka State Roadways Transport Corporation,
Rep by its Managing Director,
Bangalore. Respondent 2/ Respondent 2

Appeal filed under Section 173 of the Motor Vehicles Act,
1988, against the award and decree, dated 28.10.2004 made in
M.C.O.P.No.720 of 2003 on the file of the Motor Accident Claims
Tribunal, I Additional District Court, Krishnagiri.

For Appellant : Mr.P.Jegadeeswaran

For R2 : Mr.T.Thiyagarajan

For R1 : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the
Tamil Nadu State Transport Corporation, challenging the
negligence as well as the quantum of compensation awarded by the
Claims Tribunal in M.C.O.P.No.720 of 2003, arising out of an
accident, which had taken place due to head on collision between
two buses, one belonging to the appellant and another belonging
to the second respondent herein.

2.On 31.05.2000 at 04.30 a.m., the 1st respondent/claimant
boarded the bus bearing Registration No.TN-29-N-1110 belonging
to the appellant /Transport Corporation. The said bus was
proceeding from Bangalore towards Hosur. When it was nearing

Garvebhalaiya, it was hit by another bus belonging to the second respondent herein bearing registration no. KA.01 F 6505 which was driven by its driver in a rash and negligent manner. As a result of the same, both the buses collided with each other and due to the said impact, the 1st respondent sustained grievous injuries for which he filed a claim petition before the Tribunal claiming a sum of Rs.5,00,000/- as compensation. As against the said claim, the Tribunal has awarded a sum of Rs.2,89,204/- with interest at the rate of 9% per annum from the date of petition as total compensation payable by the appellant and second respondent herein in equal proportion. Aggrieved over the same, the appellant/Transport Corporation has filed the present Appeal.

3. Heard the learned counsel for the appellant and the learned counsel for the second respondent. Though the appeal was admitted way back in the year 2005, the appellant transport corporation has not taken proper steps to serve notice on the first respondent/claimant.

4. The learned counsel for the appellant Transport Corporation has submitted that the Tribunal has erred in holding that the driver of the appellant Transport Corporation bus was also rash and negligent in driving the bus. He also submitted that the compensation awarded by the Tribunal is excessive.

5. A perusal of the award of the Tribunal would disclose the following factors:

i. The Tribunal has considered the evidence of P.W.1-claimant coupled with Ex.P1-FIR and held that both the drivers of the buses were responsible for the accident.

ii. Both the drivers have been examined before the Tribunal as R.W.1 and R.W.2 to speak about the manner of the accident.

6. The Tribunal has considered the materials and evidence in proper perspective and has fixed the liability at the rate of 50% on the appellant Transport Corporation as well as the second respondent Transport Corporation, and hence the same is confirmed.

7. With regard to the quantum of compensation, the Tribunal based upon the facts, materials and evidence more particularly, P.W.2 Doctor, and also the dictum laid down in the decisions of the Apex Court, has calculated the loss of income at Rs.1,53,000/- (Rs.3,000/- x 12 x 17 X 25%) by estimating the annual loss of income at Rs.36,000/-, adopting the multiplier of '17' and fixing 25% disability. Further, awarding Rs.18,000/- towards loss of income during the treatment period of six months, Rs.5,000/- towards transportation, Rs.5,000/- towards

extra nourishment, Rs.5,000/- towards future medical expenses, Rs.25,000/- towards loss of earning capacity, Rs.3,204/- towards medical expenses, Rs.75,000/- towards pain and suffering, the total compensation has been estimated at Rs.2,89,204/-. Even though the compensation towards loss of income works out to Rs.1,53,000/-, the Tribunal has stated it as Rs.1,52,800/- in the discussion portion of the judgment, but in the final portion of the judgment, the total compensation has been correctly stated as 2,89,204/-. This Court is of the opinion that the compensation awarded by the Tribunal is reasonable, weight of evidence and based on settled principles and therefore, there is no ground to interfere with the judgment passed by the Tribunal below, in respect of quantum.

8. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Transport Corporation shall deposit the compensation along with interest and costs, as ordered by the Claims Tribunal, less the amount already deposited, if any, within a period of four 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. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III MDU)

//True Copy//

Sub Assistant Registrar

srk/tta

To

1. The I Additional District Judge,
Motor Accident Claims Tribunal,
Krishnagiri.

Copy To

The Section Officer, V.R. Section,
Madras High Court, Chennai 104

+1cc to Mr.T.Thiyagarajan, Advocate, S.R.No. 70539

C.M.A.No.2878 of 2005

VSN II(CO)
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