

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3222 of 2005

Tamil Nadu State Transport
Corporation Limited rep. by its
Managing Director
Salem.

Appellant /Respondent

Vs

B.M.Krishnamoorthy

Respondent/Claimant

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 28.03.2005 made in MCOP No.746 of 2001 on the file of the Motor Accidents Claims Tribunal (Additional District Judge, FTC No.2), Salem.

For Appellant : Mr.R.Arunmozhi

JUDGMENT

This appeal is preferred by the appellant/Transport Corporation against the award of a sum of Rs.75,990/- towards compensation to the respondent, due to the injuries suffered by him, while he was travelling in the appellant's bus.

2.The case in brief is as follows:

On the fateful day, i.e. on 06.12.2000, the respondent / claimant was travelling as a passenger in the bus bearing Registration No. TN 27 N 1232 belonging to the appellant. At about 4.30 p.m. when the bus was nearing Oil mill in the Salem to Trichi main road, a Maruthi car came from the opposite direction and at that time, to avoid the accident, the bus driver turned the bus towards left. Due to the rash driving of the bus by its driver, the bus turned turtle. Due to the impact, the respondent sustained grievous injuries. The claimant filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.75,990/- 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 Tribunal has erred in holding that the appellant's bus driver was rash and negligent and was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

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

6.It is seen that batta with petition due in respect of the respondent. Even though this appeal was admitted way back in the year 2005, the appellant Transport Corporation has not taken proper steps to serve papers to the respondent, even at this length of time. Hence, considering the paucity of time, the appeal itself is taken up for final disposal on merits.

7.The respondent/claimant has been examined as P.W.1 before the Tribunal. He deposed that the driver of the bus drove it in a rash and negligent manner and due to the same, the accident had occurred. In connection with the accident, Rasipuram Police, has registered a case against the driver of the bus in Cr.No.653 of 2000. Further, there were discrepancies in the evidence adduced by R.W.1-driver and the complaint made by him. Taking note of all these aspects, 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 belonging to the appellant Transport Corporation, which finding, this Court is not inclined to interfere.

8.In respect of the quantum of compensation, the Tribunal has awarded a sum of Rs.45,000/- towards permanent disability of 25% fixed by P.W.2-Doctor as per Ex.P5-Disability Certificate. The Tribunal has also awarded Rs.19,990/- towards medical expenses based on Ex.P4-Medical Bill series, Rs.1,000/- towards transportation, Rs.7,500/- towards pain and sufferings and Rs.2,500/- towards extra nourishment, which in the considered view of this Court, are just and very reasonable. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above heads and hence, the same need not be interfered with by this Court.

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

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

vum/srk

To

1.The Motor Accidents Claims Tribunal
(Additional District Judge, FTC No.2),
Salem.

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

+1cc to M/s.R.Arunmozhi, Advocate, S.R.No.60838

VBA(CO)
CB(17/08/2020)

C.M.A.No.3222 of 2005

सत्यमेव जयते

WEB COPY