

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.3830, 3831, 3832 & 3833 of 2005
and

C.M.P.No.19044, 19045, 19046 & 19047 of 2005

Tamil Nadu State Transport Corporation,
Salem, Division-2, Bharathipuram,
Salem Main Road, Dharmapuri.

... Appellant/1st Respondent
in all the CMAs

Vs.

1.Perumal

...1st Respondent/Petitioner

2.K.Natchimuthu

3.National Insurance Company Ltd,
Branch Office,
372-E, Salem Main Road,
Mettur Dam,
Salem District.

..Respondents 2 & 3/Respondents 2 & 3
in C.M.A.No.3830 of 2005

1.Govindan

...1st Respondent/Petitioner

2.K.Natchimuthu

3.National Insurance Company Ltd,
Branch Office,
372-E, Salem Main Road,
Mettur Dam,
Salem District.

..Respondents 2 & 3/Respondents 2 & 3
in C.M.A.No.3831 of 2005

1.Madhan

...1st Respondent/Petitioner

2.K.Natchimuthu

3.National Insurance Company Ltd,
Branch Office,
372-E, Salem Main Road,
Mettur Dam,
Salem District

..Respondents 2 & 3/Respondents 2 & 3
in C.M.A.No.3832 of 2005

1.Rangan

..1st Respondent/Petitioner

2.K.Natchimuthu

3.National Insurance Company Ltd,
Branch Office,
372-E, Salem Main Road,
Mettur Dam,
Salem District.

..Respondents 2 & 3/Respondents 2 & 3
in C.M.A.No.3833 of 2005

COMMON PRAYER: Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 29.12.2004 made in M.C.O.P.Nos.1843, 1848, 1849 & 1851 of 2003 on the file of Motor Accident Claims Tribunal, I Additional District Court, Krishnagiri.
In all the C.M.As.

For Appellant
For R3

: Mr.S.V.Vasanth Kumar
: Mr.S.Vadivel
Steps not taken to Serve
Notice to the Respondents 1 & 2

Common Judgment

These Civil Miscellaneous Appeals are directed against the common award, dated 29.12.2004 passed in M.C.O.P.Nos.1843, 1848, 1849 & 1851 of 2003, wherein, the Motor Accident Claims Tribunal, I Additional District Court, Krishnagiri, (for short, "The Tribunal") awarded the total compensation at Rs.15,816/-, Rs.12,860/-, Rs.12,860/- and Rs.12,860/- respectively to the claimants.

2.It is the case of the claimants/first respondent(s) herein that they were travelling as passengers in a Tempo Van on the date of accident and while the Van was nearing Nallampalli Shandy, the Transport Corporation bus tried to over take the Van, due to which, it hit the Van, and thereby caused the accident. Due to the said impact, the claimants sustained grievous injuries. Immediately they were admitted in the hospital. Stating so, the claimants filed the claim petitions before the Tribunal seeking compensation of Rs.50,000/- each. The Tribunal based on the witnesses account and materials available on record, has awarded the compensation, as stated supra.

3.Heard both sides.

4. It is the case of the appellant/Transport Corporation, in all the above appeals, that the income of the claimants/injured taken by the Tribunal was without any proof;

the amount awarded under each and every heads is very high; and the Tribunal erred in rejecting the evidence of R.W.2 / driver of the Transport Corporation bus, without assigning valid reasons.

5.Per Contra, the learned counsel appearing for the third respondent/Insurance Company, in all the above Appeals, submitted that the Tribunal, after analyzing the evidence and documents in a threadbare manner, has fixed the liability on the appellant/Transport Corporation, which does not require any interference by this Court. He further submitted that the F.I.R and other documents disclose the fact that the driver of the Transport Corporation Bus was at fault and hence, the award passed by the Tribunal is perfectly justified.

6.To appreciate the said contentions, it is necessary to re-look into the award passed by the claims Tribunal.

7.The claims Tribunal has taken into account the petitions individually and passed the common judgment based on the principles enunciated under the Motor Vehicles Act. While dealing with the same, the Tribunal has taken into account Ex.P1/F.I.R, charge sheet, insurance policy and wound certificate of the injured / claimants.

8.While dealing with the evidence of R.W.2/driver of the bus, the Tribunal has rendered a finding with regard to the signaling and other relevant commands, while driving the vehicle and has held that the evidence of R.W.2 is against Ex.R3/sketch. Further, the Tribunal has discussed in detail about the manner of the accident and the contra evidence given by the driver before the Criminal Court. The Tribunal has further held that the facts and circumstances of the case only indicate that there was negligent driving on the part of the driver of the Transport Corporation Bus / appellant herein.

9.This Court is of the opinion that the findings rendered by the Tribunal on negligence are perfectly valid and justified, since the same are based on the weightage of evidence, probabilities of the case and settled principles of law. Further, an analysis of the entire documents and evidence would only establish a fact that no steps have been taken by the appellant herein to establish the factum of accident in the manner known to law. Hence, the same need not be interfered with by this Court.

10.As far as the quantum of compensation arrived at by the Tribunal is concerned, it has awarded compensation under three

heads, viz., Transportation Expenses, loss of earning during treatment period and pain and suffering. Though the claimants claimed a sum of Rs.50,000/- each, the Tribunal has rightly taken note of the evidence of Doctor (P.W.13), discussed in detail about the injuries sustained by the claimants and ultimately awarded the just compensation. Hence, this Court is of the view that the ultimate compensation awarded by the Claims Tribunal is proper and justifiable, which does not require any interference, since the same is commensurate with the nature of injuries and period of treatment taken by the claimants / respective first respondent(s) herein.

11. In the result, the Civil Miscellaneous Appeals stand dismissed. The appellant / Transport Corporation, in the above appeals, is directed to deposit the compensation amounts, as awarded by the Claims Tribunal, along with interests and costs, 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 Tribunal shall transfer the amount to the Savings Bank Accounts of the claimants / respondents, through RTGS, within one week thereafter. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Arbitration)

/True Copy/

Sub Assistant Registrar

To

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

2. The Section Officer, V.R. Section,
High Court of Madras, Chennai.

+4cc to M/s.S.Vadivel, Advocate Sr.No. 56759 to 56762

AKM/06.02.2020/4P-7C /

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