

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.3862 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation Ltd,
Chennai. ... Appellant / 2nd Respondent

Vs

Lakshmi ... Respondent / Claimant

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 06.04.2005 passed in M.C.O.P.No.438 of 2004 on the file of the Motor Accident Claims Tribunal, Chidambaram.

For Appellant : Mr.M.Krishnamoorthy

J U D G M E N T

As against the award passed by the Claims Tribunal for a sum of Rs.55,000/-, to the respondent herein, this Civil Miscellaneous Appeal has been filed by the Transport Corporation, as appellant.

2. Despite giving several opportunities and notice sent to the respondent, neither the respondent nor the learned counsel for the respondent is present before this Court. Hence the Appeal is taken up on merits.

3. Heard the learned counsel for the appellant.

4. The learned counsel for the appellant contended that the accident was an 'Act of God' and hence the Tribunal erred in fixing the liability on the part of the appellant.

5. The said submission requires examination of the award passed by the Tribunal.

6. A perusal thereof would go to show that the claimant has sustained crush injury in the right leg and fracture in the right knee etc., for which, the claimant has taken treatment.

Ex.A.4 and Ex.A.5 evidentially disclose that the injuries had happened to the claimant on account of the accident. Further, the Tribunal has discussed in detail about the Discharge Summary, X-rays and Scans taken by the claimant which were marked as exhibits. Though the appellant contended that the accident was on account of 'Act of God', they indirectly admit that there was an accident. Totality of the circumstances would reveal that the accident had happened due to tyre burst. It cannot be disputed that the appellant Corporation is duty bound to maintain the vehicles in a road worthy condition. If the same is not maintained and the public is at threat, fastening of liability on the appellant is a sine qua non.

7. In view of the above, this Court is of the view that the findings rendered by the Tribunal on negligence as well as on quantum are hereby confirmed as such.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Transport Corporation shall deposit the entire compensation amount, along with interests and costs, as awarded 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 Tribunal is directed to transfer the deposited amount to the Savings Bank Account of the claimant / injured / first respondent herein, forthwith, through RTGS.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

srk / vrn
To

1. The Motor Accident Claims Tribunal,
Chidambaram.

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

+2cc to Mr.M.Krishnamoorthy, Advocate Sr.53255 and 53254

C.M.A.No.3862 of 2008

ss[co]
srg 30/09/2019