

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.4204 of 2005

Tamil Nadu State Transport Corporation Ltd.,
rep.by its Managing Director,
Villupuram. : Appellant/1st Respondent

Vs.

1.Rathinambal :1st Respondent/Claimant

2.Kaliyan

3.The Manager,

National Insurance Co. Ltd

Jawaharlal Nehru Street,

Pondicherry.

: Respondents 2 & 3/Respondents 2 & 3

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 29.07.2003 made in M.C.O.P.No.799 of 1999 on the file of the Motor Accidents Claims Tribunal, Principal Sub Judge, Cuddalore.

For Appellant : Mr.S.V.Vasanthakumar

J U D G M E N T

The appellant is the Transport Corporation and the first respondent is the claimant in MCOP.No.799 of 1999, on the file of the Motor Accidents Claims Tribunal, Cuddalore.

2.The facts in a nutshell are that on 19.02.1999 at about 16.25 hours, when the first respondent was travelling in an auto bearing Regn.No.TN 31 B 3810 from Manjakuppam to Cuddalore bus stand, a bus bearing Regn.No.TN32 N 0854 belonging to the appellant Transport Corporation came from the opposite direction in a rash and negligent manner and dashed against the auto. As a result of the same, the first respondent sustained grievous injuries all over her body. She filed a claim petition, claiming compensation of Rs.2,75,000/-. On consideration of the evidence, the Tribunal, after having held that the accident had occurred

due to the rash and negligent driving of the drivers of both auto and bus, fixed the liability on both the drivers at 50% each and accordingly, awarded a compensation of Rs.75,000/-. Aggrieved over the 50% liability as well as quantum of compensation awarded by the Tribunal, the appellant Transport Corporation is before this Court.

3.The learned counsel for the appellant Transport Corporation submitted that the Tribunal erred in holding that the driver of the bus belonging to the appellant Transport Corporation was also at fault, without properly appreciating the evidence. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

4.Heard the learned counsel for the appellant and perused the records.

5.The Record of Proceedings would disclose that batta with petition is due in respect of the respondents 2 and 3. The appellant Transport Corporation has not taken steps to serve papers to the respondents, even at this length of time. However, considering the paucity of time, this Court is inclined to dispose of this appeal, on merits.

6.According to the first respondent/claimant, the bus bearing Regn.No.TN32 N 0854 came in a rash and negligent manner and dashed against the auto and due to the same, the accident took place. A counter statement was filed before the Tribunal, in which, it is stated that when the bus was nearing Subburayalur Reddiar Kalyana Mandapam in Bharathy Road, the auto proceeding from north to south, suddenly turned to west and dashed against the bus and hence, the driver of the auto alone was responsible for the accident. As per Ex.P1 First Information Report, the case in Cr.No.157/1999 was registered against the driver of the auto for the offence under Sections 279 and 337 IPC. However, the Tribunal, taking note of the materials and evidence adduced, came to the conclusion that the accident had occurred due to the rash and negligent driving of both the drivers and accordingly, fixed the liability on both the drivers at 50% each. This Court is not inclined to interfere with the said finding arrived at by the Tribunal.

7.As regards the quantum of compensation, P.W.1/first respondent/claimant deposed in her evidence that she sustained fracture on left leg, lacerated injuries on both eyebrows and multiple injuries all over her body; due to the same, she could not sit, squat, stand, walk and do her work as before; and she was taken treatment from 19.02.1999 to 03.03.1999. P.W.2 Doctor stated that the injured suffered 45% permanent disability. Ex.P4 is the wound certificate and Ex.P5 is the disability

certificate. However, there was no proof with regard to the loss of income due to the injuries and medical expenses. The Tribunal, after evaluating those materials and evidence, has rightly awarded a consolidated sum of Rs.75,000/- towards permanent disability, pain and suffering and the injuries sustained by the first respondent, with interest at 9%pa from the date of petition and the same need not be interfered with by this Court.

8.In fine, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant Transport Corporation is directed to deposit their share of award amount (50%) with interest and costs, 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 Tribunal shall transfer the same to the savings bank account of the first respondent/claimant, within a period of one week thereafter.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

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To

1.Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

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

+1cc to Mr.s.V.Vasanthakumar, Advocate, SR.No.45714.

SV(CO)
CSR: 05.02.2020

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