

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2933 of 2008

and

M.P.No.1 of 2008

The Managing Director
Tamil Nadu State Transport Corporation - 1
Villupuram. ... Appellant/3rd Respondent

vs.

1. Sivakumar ...1st Respondent/Petitioner
2. G.Gajendran
3. The Oriental Insurance Company Ltd.,
Vellore. ... Respondents 2&3/ Respondents
1 & 2

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 30.04.2008 made in M.C.O.P.No.170 of 2006 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Vellore.

For appellant : Mr.V.Kasi Viswanathan

For respondent-1 : Mr.N.Vijayaraghavan

For R2 & R3 : NA

JUDGMENT

This appeal has been filed by the State Transport Corporation as against the award dated 30.04.2008 passed by the Motor Accidents Claims Tribunal, Sub Court, Vellore, in M.C.O.P.No.170 of 2006.

2.The first respondent/claimant, who met with an accident on 15.03.2005, while travelling in a bus bearing Regn.No.TN32 N 2102 belonging to the appellant transport Corporation and sustained grievous injuries in the same, filed a claim petition claiming compensation of Rs.7,00,000/- stating that the accident had occurred only due to the rash and negligent driving of the driver of the lorry bearing Regn.No.TMN 7036 belonging to the second respondent and insured with the third respondent insurance company, who came from the opposite direction and dashed against the bus.

3.The Tribunal, on consideration of the materials and evidence available on record, came to the conclusion that the drivers of both the bus and lorry were equally responsible for the accident and accordingly, fastened the liability on the appellant transport corporation and the third respondent insurance company at 50% each and ultimately awarded a total compensation at Rs.91,000/- with interest at 7.5% p.a., the break -up details of which read thus:-

Sl.No.	Head	Amount awarded by the Tribunal
1	Injuries	Rs. 65,000/-
2	Pain and suffering	Rs. 7,000/-
3	Transportation and Extra Nourishment	Rs. 8,000/-
4	Medical Expenses	Rs. 11,000/-
	Total	Rs. 91,000/-

Aggrieved over the same, the appellant transport Corporation has preferred this appeal.

4.The learned counsel for the appellant transport corporation submitted that without considering Ex.P1/FIR and the evidence of R.W.2/conductor of the bus to the effect that the driver of the lorry alone was responsible for the accident, the Tribunal has erred in holding that the drivers of both the vehicles have equally contributed to the accident. He further submitted that the compensation awarded by the Tribunal is excessive and exorbitant and hence, the same has to be reduced substantially.

5.Per contra, the learned counsel for the first respondent/claimant submitted that after evaluation of the materials and evidence adduced by the parties, the Tribunal has rightly rendered its findings on negligence and liability and awarded the just compensation and hence, the same do not call for any interference by this Court.

6.Heard both sides and perused the records.

7.On a perusal of the award, it could be seen that though the evidence of the claimant as P.W.3 and R.W.2/conductor of the bus coupled with Ex.P1 -FIR was to the effect that the driver of the lorry alone was responsible for the accident, the Tribunal, placing reliance on Ex.R1 award passed by the District Court, Tiruvannamalai in MCOP.No.360/2005 arising out of the same accident, wherein, it was held that both the drivers of the

vehicles were responsible for the accident and taking note of the fact that both the drivers died in the said accident, has rightly come to the conclusion that the accident had occurred due to the rash and negligent act on the part of the drivers of both the vehicles and accordingly, fastened liability on the appellant transport corporation and the insurer of the lorry at 50% each, which finding this Court is not inclined to interfere.

8.As regards the quantum of compensation, P.W.3/claimant has deposed in his evidence that due to the accident, he sustained fractures in his right knee, right leg fingers and left hand wrist, besides receiving injuries in all over the body. The testimony of the claimant was corroborated by the evidence of P.W.4/doctor. Ex.P21 is the disability certificate issued by P.W.4. The Tribunal, taking note of the oral and documentary evidence adduced by the first respondent/claimant, has determined the total compensation at Rs.91,000/-, which in the opinion of this Court, is just and reasonable and the same cannot be treated as excessive and exorbitant at any stretch of imagination and hence, the same need not be interfered.

9.In fine, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant/ Transport Corporation is directed to deposit the entire compensation amount along with interest 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 said sum to the Savings Bank Account of the claimant/first respondent herein, through RTGS within a period of one week thereafter.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal, Vellore.
2. The Section Officer, V.R.Section,
Madras High Court, Chennai 104.

sj(co)
krd 29/9

C.M.A.No.2933 of 2008
and
M.P.No.1 of 2008