

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.08.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1329 of 2009

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd., Villupuram.

...Appellant/Respondent

Vijay Anand

Vs

...Respondent

(Sole respondent declared as major
as per the order of this Court
dated 07.10.2009 in MP.Nos.2 & 3/2009)

Appeal filed under Section 173 of the Motor Vehicles Act
against the Decree and Judgment made in M.A.C.T.O.P.No.524 of
2005 dated 31.01.2007 passed by the Motor Accident Claims
Tribunal (Principal Subordinate Court), Vriddhachalam.

For Appellant : Mr.N. Anand

JUDGMENT

This appeal is preferred by the Appellant/Transport
Corporation challenging the Decree and Judgment made in
M.A.C.T.O.P.No.524 of 2005 dated 31.01.2007 passed by the Motor
Accident Claims Tribunal (Principal Subordinate Court),
Vriddhachalam.

2.The case in brief, is as follows:

On the fateful day, ie. on 05.12.2005 at about 08.30 a.m
when the respondent herein was entering into the bus bearing
Registration No:TN-32-N-1162 belonging to the appellant, the
driver of the bus took the bus suddenly with accelerating speed.
Due to the said impact, the respondent fell down from the bus
and sustained grievous injuries. The respondent herein filed a
claim petition claiming compensation of Rs.1,00,000/-. The
Tribunal on consideration of the materials and evidence
available on record, has arrived at the total compensation at
Rs.90,267/- with interest at the rate of 9% p.a., 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/Transport Corporation has submitted that the Tribunal has erred in holding that the driver of the appellant's bus was rash and negligent in driving the bus, since the fault was completely on the respondent who travelled in the foot board. He also submitted that the liability fixed against them is improper and 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. Though this appeal was admitted way back in the year 2009, the appellant has not taken proper steps to serve papers on the other side. However, due to paucity of time, this appeal is taken up for final disposal on merits.

7. Before the Tribunal, the mother of the injured was examined as P.W.1, who deposed that the accident had occurred only due to the rash and negligent driving of the driver of the bus. However, she was not an eyewitness to the occurrence. In respect of the aspect of negligence, the Transport Corporation / appellant herein has neither let in any evidence nor marked any documents before the Tribunal to show that the bus driver was not negligent. Nothing prevented them from marking any documents or producing any evidence before the Tribunal. In these circumstances, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus, does not require any interference.

8. With regard to the quantum of compensation, P.W.2/Dr.Palani has issued disability certificate/Ex.P.6 and the same was considered properly and the Tribunal has awarded a sum of Rs.22,000/- under the head disability. Based on Exs.P.4 and P.5 and Ex.P.7/medical bills, the Tribunal has awarded Rs.8,267/- towards medical expenses and Rs.15,000/- was awarded towards pain and suffering. Further, the Tribunal has awarded Rs.10,000/- towards Transport Expenses, Rs.5,000/- towards Extra nourishment, Rs.5,000/- towards attender charges and Rs.25,000/- towards loss of future earnings on account of disability. This Court is of the view that the findings rendered on quantum by the Tribunal are based on settled principles of law, probabilities of case and weightage of evidence. Hence, the

award passed by the Tribunal is perfectly valid in the eye of law and no interference is required.

9. In the result, the Civil Miscellaneous Appeal is dismissed. 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 six 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. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/
Sub Asst. Registrar

srk/smn

To

1.The Motor Accidents Claims Tribunal
(Principal Sub Court) Vridhachalam.

Copy to
The Section Officer,
VR Section, Madras High Court.

+1 cc to Mr.N.Anand Advocate sr69893

C.M.A.No.1329 of 2009

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