

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1692 of 2009
and
M.P.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport corporation Ltd.,
Kumbakonam. ...Appellant /4th Respondent

Vs

1. S.M. Ravi
2. Panneer Selvam
3. New India Assurance Company Ltd.,
Parimalam Complex 11 - E-V.N. Road,
Erode Town.
4. Chella MuthuRespondents/Claimant and
Respondents 1 to 3

Appeal filed under Section 173 of the Motor Vehicles Act against the Decree and Judgment passed in M.C.O.P.No.239 of 2004 dated 30.09.2008 on the file of the Motor Vehicles Accident Claims Tribunal and 2nd Additional Sub Judge, Gobichettipalayam.

For Appellant	:	Mr.S.V. Vasantha Kumar
For Respondents 1	:	Mr.Ma.Pa. Thangavel
For Respondents 2 to 4	:	Ex-parte

JUDGMENT

This appeal is preferred by the Appellant/ Transport Corporation against the Decree and Judgment passed in M.C.O.P.No.239 of 2004 dated 30.09.2008 on the file of the Motor Vehicles Accident Claims Tribunal and 2nd Additional Sub Judge, Gobichettipalayam, wherein the Tribunal has fixed 50% liability on the part of the appellant/Transport Corporation.

2.The case in brief, is as follows:

On 12.10.2005 at about 10:15 hours when the first respondent herein was driving his Maruthi Omni Van bearing Registration No.TN-45-F-9509 from Madras to Trichy G.S.T. Road near Arapedu

Cross Road, the appellant's bus bearing Registration No:TN-45-N-1702 came in a rash and negligent manner from the opposite direction and dashed against the van. As a result of the same, the first respondent fell down from the van and sustained multiple and grievous injuries. The first respondent herein filed a claim petition claiming a compensation of Rs.5,00,000/-. The Tribunal on consideration of the materials and evidence available on record, has arrived at the total compensation of Rs.3,07,182/- out of which the appellant was directed to pay 50% with interest at the rate of 7.5% p.a., from the date of petition. Challenging the 50% liability fixed on the appellant/Transport Corporation, the present Civil Miscellaneous Appeal came to be filed.

3.The learned counsel for the appellant/Transport Corporation contended that the Tribunal erred in holding that the driver of the appellant bus was also responsible for the accident, since he was not at fault in his driving and only the claimant had invited the accident. He further contended that at the time of accident the driver of the van without adhering to the traffic rules came in the wrong route and dashed against the appellant's bus and caused damage and hence fixing of 50% liability against them is improper.

4.Per contra, the learned counsel for the first respondent contended that the accident had taken place only due to the lethargic attitude of the driver of the appellant's bus and at the time of accident, the driver of the van drove the same at a moderate speed.

5.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

6.Before the Tribunal, the injured was examined as P.W.1, who has deposed that the accident had taken place due to the inattentive attitude of the driver of the appellant's bus. The contents of Ex.P1/F.I.R support the case of the claimant rather than the appellant. The Tribunal, considering the manner of the accident and relying upon the above evidence, has fixed the negligence on the part of both the drivers (van and bus) and accordingly fastened the liability on the appellant/Corporation at 50% and on the third respondent Insurance Company at 50%. This Court is of the view that the findings rendered by the Tribunal, are based upon the weightage of evidence, probabilities of case and settled principles of law and hence the same are confirmed as such.

7.As regards the quantum of compensation, the Tribunal has fixed the monthly income of the injured at Rs.3,000/- and after

deducting 1/3rd of the amount towards personal expenses, calculated the annual income at Rs.24,000/-, adopted 18 multiplier and awarded a sum of Rs.2,16,000/- towards loss of income for 50% disability. Considering Ex.P.8 to P.12/ Medical bills, the Tribunal has awarded Rs.76,182/- towards medical expenses. Further the Tribunal has awarded Rs.5,000/- towards Transportation Expenses, Rs.5,000/- towards Extra nourishment and Rs.5,000/- towards pain and suffering. 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.

8.In the result, the Civil Miscellaneous Appeal is dismissed. The appellant/Transport corporation is directed to deposit the compensation 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 first respondent is permitted to withdraw the same on making proper application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal
II Additional Sub Judge,
Gobichettipalayam.

Copy to

The Section Officer,
VR Section, Madras High Court.

+1cc to M/s.Ma.P.Thangavel, Advocate Sr.72649

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