

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1902 of 2009
and M.P.No.1 of 2009

Managing Director,
Tamil Nadu State Transport Corporation
Salem Ltd.
Bharathipuram,
Salem Main Road
Dharmapuri. Appellant/3rd Respondent

Vs

1.Muniammal1st Respondent/Petitioner
2.A.Ramesh2nd Respondent/1st Respondent
3.United India Insurance Co.Ltd.,
35-J, M.B.T.Road
Gandhi Chowk, Ranipet.3rd Respondent/2nd Respondent

Prayer : Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 21.11.2008 made in MCOP No.1060 of 2004 on the file of the Additional District Judge, Motor Accidents Claims Tribunal, Krishnagiri.

For Appellant : Mr.S.S.Swaminathan

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.99,755/- towards compensation to the first respondent, due to the injuries suffered by her in a motor vehicle accident.

2.The case in brief, is as follows:

On 17.12.2003, when the first respondent was residing in her house, situated near National Highway at Nallampally, at about 10.30 a.m., the lorry bearing Reg.No.KA-02-1098, belonging to the second respondent, was proceeding in the Salem - Dharmapuri Road, towards Salem. The bus belonging to the appellant Transport Corporation bearing Reg.No.TN-29-N-1408 was

proceeding from Salem towards Dharmapuri. Near Sowlurankottai, both the vehicles dashed against each other. Due to the said impact, the bus belonging to the appellant Transport Corporation lost its control and ran on the left side of the field and dashed against the house of the first respondent. Due to the same, the house was completely damaged and the first respondent and her daughter sustained injuries. The first respondent filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.99,755/- with interest at the rate of 7.5% per annum from the date of petition, and fixed 30% liability on the appellant Transport Corporation.

3.Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the Tribunal has erred in holding that the appellant's bus driver was also rash and negligent and was responsible for the accident. He also submitted that 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.It is seen that the respondents have not been served. Even though this appeal was admitted way back in the year 2009, the appellant Transport Corporation has not taken proper steps to serve papers to the respondents, even at this length of time.

7.It is not in dispute that both the vehicles dashed against each other and consequently, dashed against the first respondent's house. The Tribunal relied upon the evidence of P.W.1 and P.W.2 (injured), which showed that while they were crossing the occurrence place, the driver of the lorry belonging to the second respondent, drove it in a rash and negligent manner and dashed against the bus belonging to the appellant Transport Corporation. The same has also been fortified by the evidence of P.W.3-Periyannan, the husband of the first respondent. The Tribunal has also observed that had the driver of the bus belonging to the Transport Corporation driven the vehicle in a cautious manner, the accident would have been avoided. Considering all these aspects, the Tribunal fixed 70% negligence on the part of the driver of the lorry belonging to the second respondent and 30% negligence on the part of the driver of the bus belonging to the appellant Transport Corporation. Upon considering the materials and evidence available on record, the Tribunal has correctly fixed 30% negligence on the part of the driver of the bus belonging to the appellant Transport Corporation, which factual finding this Court is not inclined to interfere.

8. In respect of the quantum of compensation, since the first respondent was doing milk business, the Tribunal fixed the monthly income at Rs.2,000/-, arrived at the annual income at Rs.24,000/-, applied the multiplier of 15 and arrived at Rs.90,000/- towards 25% disability. The Tribunal has also awarded a sum of Rs.2,755/- towards medical expenses, Rs.5,000/- towards pain and suffering and Rs.2,000/- towards transportation. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above heads and hence the same need not be interfered with by this Court.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Transport Corporation is directed to deposit the award amount with interest, 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 / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

KM

To

1. The Additional District Judge,
Motor Accidents Claims Tribunal, Krishnagiri.

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

+1cc to Mr.S.S.Swaminathan, Advocate SR.No.59493

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MR (CO)
GMY (26/11/2019)