

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.2764 of 2009

and M.P.No.1 of 2009

The Managing Director,
The Tamilnadu State Transport
Corporation Ltd.,
Division - 1, Villupuram Appellant

...vs...

1. Nagamuthu
2. The Managing Director,
Tamilnadu State Transport
Corporation Ltd.,
Villupuram - Division - 2,
Vellur Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 09.07.2008 made in M.C.O.P.No.642 of 2004 on the file of the Motor Vehicles Accidents Claims Tribunal, Principal Sub Court, Villupuram.

For Appellant : Mr.V.Ramesh

For Respondents : Mr.T.Dhanyakumar for R1
R2 - No appearance.

सत्यमेव जयते
J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the order and decree dated 09.07.2008 passed by the Motor Vehicles Accidents Claims Tribunal, Principal Sub Court, Villupuram, in M.C.O.P.No.642 of 2004.

2.The case in brief is as follows:

On 25.10.2004 at 11.30 a.m., the 1st respondent/claimant was going to Bangalore in the appellant-bus bearing registration No.TN32 N 1838. When the bus was nearing Chennappa Naickanur, the driver of the bus drove the vehicle in a rash and negligent manner and hit the second respondent's bus bearing Regn.No.TN23 N 1404 from behind, while overtaking the same. Due to the said impact, the 1st respondent sustained fracture in his left hand, besides receiving multiple laceration and abrasion. Stating so, he filed a claim petition

claiming a compensation of Rs.5,00,000/-. The Tribunal, based on the oral and documentary evidence available on record, awarded a total compensation of Rs.1,10,000/- (wrongly calculated as Rs.80,000/-) with interest at 7.5%pa from the date of petition. Aggrieved over the same, the transport corporation has preferred this appeal.

3. The learned counsel for the appellant / Transport Corporation submitted that the first respondent himself invited the accident, by putting his hand outside and receiving fracture injury and hence, the appellant transport corporation is not liable to pay any compensation. The learned counsel further submitted that the quantum of compensation awarded by the Tribunal is excessive and exorbitant.

4. The learned counsel for the 1st respondent submitted that the Tribunal after analysing the entire oral and documentary evidence adduced by the parties, has rightly rendered its findings on negligence and liability of the appellant Transport corporation and has awarded the just compensation and hence, the same do not call for any interference by this Court.

5. Heard both sides and perused the records.

6. P.W.1/first respondent/claimant has stated in his evidence that on 25.10.2004, while he was travelling in the appellant transport corporation bus, its driver drove the vehicle in a rash and negligent manner and hit the second respondent's bus, while overtaking the same; and the accident had occurred due to the rash and negligent act on the part of the drivers of both the buses. Whereas in Ex.P1 -FIR, it was stated that the driver of the appellant transport corporation bus was responsible for the accident. Hence, the Tribunal has relied on the contents of the First Information Report and has rightly come to the conclusion that the accident was caused only due to the rash and negligent driving of the driver of the bus belonging to the appellant transport corporation, which finding this Court is not inclined to interfere.

7. As far as the quantum of compensation is concerned, P.W.1/first respondent/claimant has deposed that due to the accident, he sustained fracture in his left hand, for which, he has undergone a surgery in a private hospital at Villupuram. Ex.P7 is the medical bill for Rs.18,790/-. The testimony of P.W.1 relating to fracture injury was supported by P.W.2, who after examining P.W.1, issued Ex.P8 disability certificate to the tune of 35%. The Tribunal taking note of the oral and documentary evidence adduced by the first respondent/claimant, has awarded a sum of Rs.8,000/- towards injuries, Rs.2,000/- towards loss of income, Rs.1,000/- towards Transportation charges, Rs.5,000/- towards Extra Nourishment, Rs.19,000/- towards medical expenses, Rs.45,000/- towards pain and suffering, Rs.20,000/- towards

disability, Rs.10,000/- towards loss of earning capacity and in totalling a sum of Rs.1,10,000/-, which has been wrongly calculated and mentioned as Rs.80,000/- in the operative portion of the order and decree in MCOP.No.642 of 2004. This Court is of the view that the compensation of Rs.1,10,000/- determined by the Tribunal is fair, just and reasonable and hence, the same is hereby confirmed.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected MP is closed. The appellant / Transport Corporation is directed to deposit the entire compensation of Rs.1,10,000/- 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 amount lying in the deposit to the Savings Bank Account of the claimant / 1st respondent, through RTGS, within a period of one week thereafter.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

ssd/rk

TO

1.The Principal Subordinate Judge,
The Motor Vehicles Accidents Claims Tribunal,
Villupuram.

2. The Section Officer,
V.R.Section, Madras High Court,
Chennai 104.

+1cc to Mr.T.Dhanyakumar, Advocate, S.R.No. 62554

Civil Miscellaneous Appeal No.2764 of 2009
and M.P.No.1 of 2009

SSD(CO)
GN(22/01/2020)