

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.2962 OF 2010

AND

M.P.NO.1 OF 2010

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.
Villupuram Division-II,
Kancheepuram.

... Appellant/4th Respondent

Vs

1.P.Latha
2.Panjalai (given up)
3.C.Munusamy (given up)
4.New India Assurance Co.Ltd.,
No.45, Moore Street,
Chennai-1.

... Respondents/Petitioner &
Respondents 1 to 3

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 31.08.2009 made in MACTOP No.5017 of 2003 on the file of the Motor Accidents Claims Tribunal (Small Causes Court No.IV), Chennai.

For Appellant : Mr.N.Anand

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.1,41,000/- 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 01.02.2003 at about 03.20 p.m., the first respondent was travelling in the car bearing Reg.No.TN-09-R-1919 from Melmaruvathur to Chennai. When the car was nearing Janakipuram S.K.M. North to Madhurantagam Police Station Limit, the driver of the car tried to overtake another car going in front of him.

At that time, the bus bearing Reg.No.TN-74-N-585 belonging to the appellant Transport Corporation, came in the opposite direction in a rash and negligent manner and collided with the car in which the first respondent was travelling. Due to the said impact, the first respondent sustained multiple grievous 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.1,41,000/- with interest at the rate of 9.5% per annum 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 has submitted that the Tribunal failed to take note of the fact that the driver of the car in question, tried to overtake a car going in the front and in that process, the accident had taken place. Hence the Tribunal ought to have fixed the negligence on the part of the driver of the car alone. 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 first respondent has not been served. Even though this appeal was admitted way back on 28.10.2010, the appellant Transport Corporation has not taken proper steps to serve papers to the first respondent, even at this length of time.

7.The impact of the accident and the spot death of the driver of the car itself showed that both the car and the bus dashed against each other and there was a head-on-collision. The driver of the bus also drove the vehicle in a rash and negligent manner. In this connection, the Tribunal observed that had the driver of the bus could control his vehicle at a particular point of accident, the impact would not have been much heavy. Considering the materials, evidence, facts and circumstances of the case, the Tribunal came to the conclusion that both the drivers were negligent. This Court is not inclined to interfere with the said factual finding rendered by the Tribunal.

8.In respect of the quantum of compensation, relying upon Ex.P10-Disability Certificate, the Tribunal awarded a sum of Rs.65,000/- towards 65% disability. The Tribunal has also awarded a sum of Rs.16,000/- towards loss of earning during the treatment period, Rs.2,000/- towards transport expenses, Rs.2,000/- towards extra nourishment, Rs.1,000/- towards damages to clothes, Rs.5,000/- towards medical expenses and Rs.50,000/-

towards pain and suffering. 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.

10.It is submitted that the entire award amount has been deposited. Hence, the first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(Comp)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Motor Accidents Claims Tribunal,
(Small Causes Court No.IV), Chennai.
2. The Section Officer,
VR Section, Madras High Court.

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and M.P.No.1 of 2010

PA(CO)
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