

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 31.10.2019
CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.3251 of 2010
and
M.P.Nos.1 and 2 of 2010

The Managing Director,
Tamil Nadu State Transport Corporation,
Division-I, 37, Mettupalayam Road,
Coimbatore.

... Appellant/ Respondent
vs.

Akkan @ Azhagiri ... Respondent/ Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 09.04.2009 made in MCOP.No.523 of 2007 on the file of the Motor Accident Claims Tribunal (Additional District Judge), Fast Track Court No.IV, Coimbatore at Tiruppur.

For Appellant : Mr.K.J.Sivakumar

For Respondent : Mr.Ma.P.Thangavel

J U D G M E N T

The Appellant - Tamil Nadu State Transport Corporation is the respondent in M.C.O.P.No.523 of 2007 on the file of the Motor Accident Claims Tribunal and Additional District Judge, Fast Track Court No.IV, Coimbatore at Tiruppur, has filed the present appeal.

2. The respondent herein has filed the claim petition before the Tribunal under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.5,00,000/- for the injuries sustained by him in the road accident, which took place on 14.11.2006.

3. The case of the claimant is as follows:

On 14.11.2006, the claimant petitioner was a pillion rider in a motor cycle bearing Registration No.TN-38-AD-8350. The said motor cycle was driven by one Ramasamy and when they were travelling on the Seyyur - Nambiyarpalayam main road and at about 3.10 hours, a bus bearing Registration No.TN-37-N-0667 belonging to the appellant-Transport Corporation hit the said motor cycle, as a result of which, the claimant sustained injuries all over his body. According to the claimant, the rash and negligent driving of the driver of the bus belonging to the Transport Corporation (appellant) was the cause for the accident and therefore, they are liable to pay compensation to the claimant.

4. It is seen from the records that the learned Additional District Judge / Motor Accident Claims Tribunal, Fast Track Court No.IV, Coimbatore at Tiruppur, while awarding compensation of Rs.4,04,560/-, concluded that the claimant also contributed to the accident and therefore, deducted 50% from the total compensation awarded to him. Aggrieved over the said award passed by the Tribunal, the appellant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mr.K.J.Sivakumar, learned counsel appearing for the appellant/Transport Corporation and Mr.Ma.P.Thangavel, learned counsel appearing for the respondent/claimant.

6. The main contention of the appellant is that since four persons were travelling in the motor cycle, the negligence cannot be fixed on the driver of the bus.

7. In the instant case, it is evident from the records that the driver of the bus and the rider of the two wheeler were rash and negligent. The manner of the accident was not disputed by the appellant. The Tribunal, after analysing the oral and documentary evidence adduced on both sides, concluded that the driver of the bus and the rider of the two wheeler were responsible for the accident and fixed contributory negligence on the part of the rider of the motor cycle to the extent of 50%.

8. The observations of the learned Additional District Judge / Motor Accident Claims Tribunal, Fast Track Court No.IV, Coimbatore at Tiruppur, are perfectly in order and in fact, the Tribunal has assigned cogent reasons for arriving at the decision. Therefore, I do not see any reason to interfere with the findings recorded by the Tribunal.

9. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

(ii) The judgment and decree dated 09.04.2009 passed by the Tribunal in M.C.O.P.No.523 of 2007 is upheld.

(iii) The appellant / Transport Corporation, is directed to deposit the entire compensation amount awarded by the Tribunal i.e., Rs.2,02,280/-(less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.523 of 2007 on the file the Motor Accident Claims Tribunal (Additional District Judge), Fast Track Court No.IV, Coimbatore at Tiruppur, within a period of four weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the respondent / claimant is at liberty to withdraw the same, as per the Award

passed by the Tribunal after following due process of law.
Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssn
To

1. The Motor Accidents Claims Tribunal,
The Additional District Judge,
Fast Track Court No.IV,
Coimbatore at Tiruppur.

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

+1cc to Mr.Ma.P.Thangavel , Advocate SR.No. 90908

+1cc to Mr.K.J.Sivakumar , Advocate SR.No. 90601

C.M.A.No.3251 of 2010

and

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A.SK(27/07/2020)



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