

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 08.08.2019
CORAM
THE HONOURABLE MR. JUSTICE R.MAHADEVAN
CMA.No.3465 of 2009
and
M.P.No.1 of 2009

Tamil Nadu State Transport Corporation Ltd,
Rep by its Managing Director,
Dindigul. Appellant /Respondents

Versus
S.T.Ravanan Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 20.10.2005 made in M.C.O.P.No.1434 of 2001, on the file of the Motor Accidents Claims Tribunal, (Additional District Judge, FTC.No.1) Salem.

For Appellant : Mr.R.Arunmozhi
For Respondent : Mr.M.R.Thangavel

J U D G M E N T

This appeal arises out of the judgment and decree dated 20.10.2005 passed by the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.1, Salem in MACT.OP.No.1434 of 2001.

2.The case in brief is as follows:

On 24.06.2001, the respondent/claimant was traveling in the Ambassador Car bearing Registration No.TDL 822. When the Car was nearing Velanchettiyur about 3.00pm, a bus bearing Registration No.TN-57-N-0751 belonging to the appellant Transport Corporation, came in a rash and negligent manner and hit the Car. Due to the said impact, the respondent/claimant sustained grievous injuries all over the body, including head. Claiming a compensation of Rs.5,00,000/-, he filed a claim petition. The Tribunal, after considering the materials and evidence available on record, fixed the negligence on the drivers of both the Car and bus at 35% and 65% respectively and determined the total compensation at Rs.2,50,100/- with interest at 7.5%pa from the date of petition. Challenging the liability of the transport

corporation at 65% (Rs.1,62,525/-), the present appeal came to be filed.

3.The learned Counsel for the appellant/Transport corporation submitted that the driver of the Car, in order to overtake a lorry, which was going in the front, drove the vehicle in a rash and negligent manner and dashed against the bus from the opposite direction and hence, the contributory negligence fixed on the driver of the bus at 65% is wholly unsustainable and is liable to be set aside. He further submitted that the quantum of compensation awarded by the Tribunal is excessive and exorbitant and therefore, the same has to be reduced substantially.

4.Per contra, the learned Counsel for the respondent/claimant submitted that the Tribunal based on the materials and evidence adduced by the parties, has rightly rendered its findings on negligence and liability and has awarded the just compensation and hence, the same do not call for any interference at the hands of this Court.

5.Heard both sides and perused the records.

6.P.W.1/respondent/claimant has deposed that on 24.6.2001, he was proceeding in the Car from Karur to Dindigul, along with three other persons; at that time, the appellant transport corporation bus, which was coming from the opposite direction, came in a rash and negligent manner and dashed against the Car, while overtaking a lorry which was coming in the front; hence, the accident had occurred only due to the rash and negligent driving of the driver of the bus. Whereas in Ex.P1 FIR, the accident was caused due to the rash and negligent driving on the part of the driver of the Car, in which, the respondent was travelling. However, the Tribunal, placing reliance on Ex.P13 judgment rendered in MCOP Nos.1432 and 1433 of 2001 arising out of the same accident, has rightly come to the conclusion that the accident had occurred due to the rash and negligent driving on the part of the drivers of both the Car and bus at 35% and 65% respectively, which finding this Court is not inclined to interfere.

7.As far as the quantum of compensation is concerned, P.W.1/respondent/claimant has deposed that in the accident, he sustained injuries on head, eyes, left leg and all over the body, besides sustaining fractures on jaw, mandila, hand fingers and loss of teeth. The same was supported by the evidence of P.W.2/Ortho doctor and P.W.3/Dental doctor. Ex.P2 wound certificate disclosed that the respondent sustained four

grievous injuries. It is revealed from Exs.P4 to P6 discharge summaries that he took treatment from 4.7.2001 to 7.7.2001 at SKS Hospital as inpatient and from 2.5.2005 to 4.5.2006 at JS Hospital as inpatient. Ex.P7 series of medical sheets disclosed that the respondent has taken treatment from 2001 to 2005. Further, plate and screw were implanted in respect of the bone fractures sustained by him. As per Exs.P14 and P16 disability certificates, he sustained 20% + 40% permanent disability. Taking note of the said materials and evidence adduced by the respondent/claimant, the Tribunal has awarded Rs.80,000/- towards pain and suffering, transportation charges and loss of income during treatment period, which is fair, just and reasonable and hence, the same need not be interfered with by this Court. Further, the Tribunal has awarded Rs.1,00,000/- towards loss of earning capacity due to permanent disability, which, in the opinion of this Court, seems to just and reasonable, considering the nature of the injuries and the quantum of permanent disability sustained by the respondent/claimant and hence, the same is hereby confirmed. That apart, the Tribunal has granted Rs.70,100/- towards medical bills, based on Ex.P10 series of bills, which is the actual expenses incurred by the respondent/claimant for the treatment taken by him and hence, the same warrants no interference at the hands of this Court. There is no modification with regard to the rate of interest at 7.5% p.a. awarded by the Tribunal.

8.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant Transport Corporation is directed to deposit their contribution of Rs.1,62,525/- with interest and costs as awarded by the Tribunal, after deducting 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 shall transfer the amount lying in the deposit to the savings bank account of the respondent/claimant through RTGS, within a period of one week thereafter.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

jas/rk

To

1.The Motor Accident Claims Tribunal,
(Additional District Judge, FTC.No.1)
Salem.

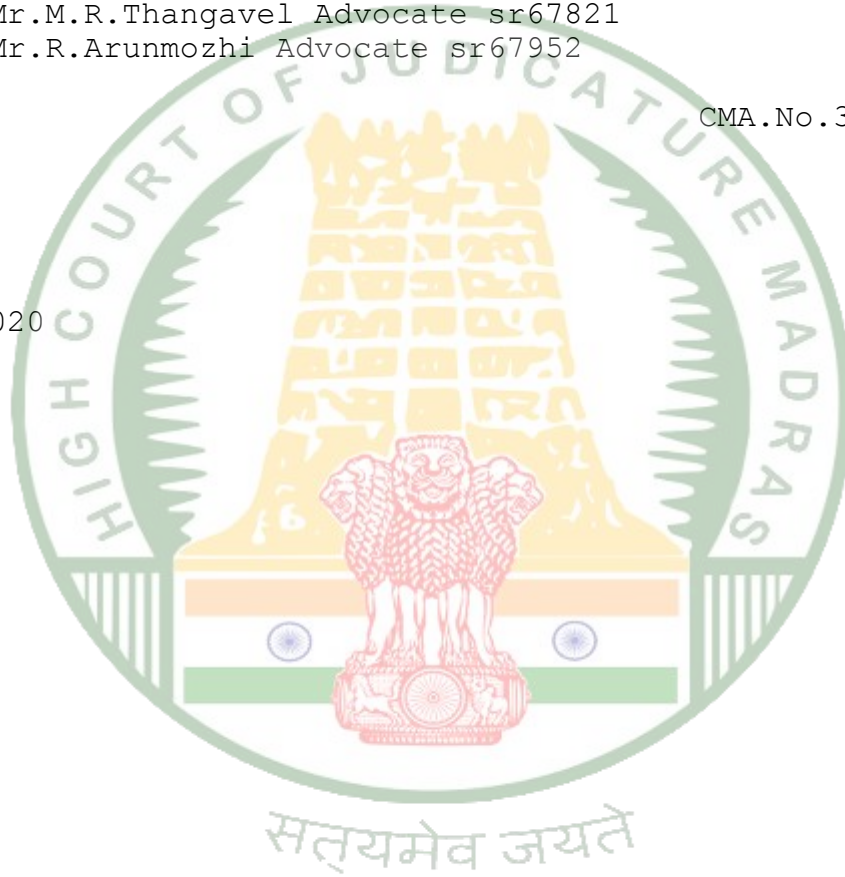
2. The Section Officer,
V.R.Section,
High Court, Madras.

+1 cc to Mr.M.R.Thangavel Advocate sr67821

+1 cc to Mr.R.Arunmozhi Advocate sr67952

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