IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.637 of 2009
and M.P.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation,
(VPM DVN.1) Ltd.,
Villupuram. ... Appellant/Respondent
(cause title accepted as per the order
of this Court dated 26.06.2002 passed
in CMP.No.8551 of 2002)

Vs.

Bala ...Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Award made in M.C.O.P.No.210 of 1996 dated 07.11.2001 on the file of the Motor Accidents Claims Tribunal (II Additional Sub Judge), Villupuram.

For Appellant : Mr.K.J.Sivakumar

For Respondent : Mr.T.Dhanyakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and decree dated 07.11.2001 passed by the Motor Accidents Claims Tribunal (II Additional Sub Judge), Villupuram, in M.C.O.P.No.210 of 1996.

2.The respondent filed a claim petition claiming a compensation of Rs.1,50,000/-, stating that he met with an accident, on 07.08.1995 at Vikravandi Nagammai Cotton Mill Bus stop, while travelling in the VMK Bus bearing Registration No.TAF 3663 from Tindivanam to Villupuram, on account of the rash and negligent driving of the driver of another bus bearing Regn.No.TN32 N0489 belonging to the appellant transport Corporation, which was coming from Villupuram to Chennai.

3.The Tribunal, on consideration of the oral and documentary evidence adduced by the parties, has awarded a total

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

compensation of Rs.2,36,520/- along with interest at 9% p.a. from the date of petition. Feeling aggrieved, the appellant transport corporation has preferred this appeal.

4.The learned counsel for the appellant submitted that the Tribunal failed to note that the accident had occurred only due to the rash and negligent driving on the part of the driver of VMK Bus, in which, the respondent was travelling, who drove the vehicle in a zig zag manner, in order to overtake Dheeran Chinnamalai Bus and Thiruvalluvar Bus and dashed against the front right side of the appellant transport corporation bus and also against the stationed lorry. The learned counsel also submitted that the Tribunal has erred in awarding a disproportionate compensation without appreciating the pleadings and the nature of the claim. Further, the quantum of compensation awarded by the Tribunal is excessive and exorbitant and hence, the same has to be reduced substantially.

5.Per contra, the learned counsel for the respondent/claimant submitted that the Tribunal, based on the evidence and materials available on record, has rightly rendered its findings on negligence and liability on the appellant Transport Corporation and awarded the just compensation and hence, the same do not call for any interference at the hands of this Court.

6.P.W.1/respondent/claimant has deposed in his evidence that on 07.08.1995, while he was coming to Villupuram in the VMK Bus, the driver of the bus stopped the vehicle at Vikravandi Nagammai Cotton mill bus stop and the conductor dropped the passengers and at that time, the appellant's bus, which was coming from Villupuram to Chennai, came in a rash and negligent manner and hit the VMK bus, while trying to overtake the lorry, which was going in the front and thereby, caused the accident. Ex.P1 First Information Report was registered based on the complaint lodged by the driver of VMK bus and the same corroborated the evidence of P.W.1. Though R.W.1/driver of the appellant's bus was examined, he made contradictory statement between the examination and cross examination. Further, no documentary evidence was produced to defend the stand so taken by the appellant transport Corporation that the accident had occurred only due to the rash and negligent act on the part of the driver of VMK bus. Hence, the Tribunal has rightly arrived at the conclusion that the accident had happened due to the rash and negligent driving of the driver of the appellant's bus, which finding this Court is not inclined to interfere.

7.Regarding the quantum of compensation, the Tribunal has fixed the monthly income of the respondent at Rs.1,200/-, adopted the multiplier of 10 and determined the compensation under the head “loss of income” at Rs.1,44,000/- (1200 x 12 x

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

10). Further, the Tribunal has awarded Rs.80,000/- towards Partial Permanent Disability, Rs.2,520/- towards medical expenses, as per Ex.P7 bill, and Rs.10,000/- towards Pain and Suffering. This Court is of the view that though the respondent claimed a compensation of Rs.1,50,000/-, the Tribunal has awarded the total compensation of Rs.2,36,520/- based on the materials and evidence adduced by the claimant and the same is also fair, just and reasonable and hence, the same warrants no interference.

8.In the result, this 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 as ordered by the Tribunal with interest and costs, after deducting the amount if any already deposited, 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 respondent/claimant through RTGS, within a period of one week thereafter.

Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

rna/rk

To

1.The II Additional Sub Judge,
The Motor Accidents Claims Tribunal,
Villupuram.

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

+1cc to Mr.K.J.Sivakumar, Advocate SR.No.71357

WEB COPY

EV(CO)
GMY(11/06/2020)

https://hcservices.ecourts.gov.in/hcservices/