

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.3604 of 2010

R.Selvi

.. Appellant

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Division II, No.1 & 2, Sheikpet Nadu Street,
Kancheepuram.

2.Mr.A.M.Munusamy Mudaliar,
Prop.Sri Bharathi Roadways,
No.146, I.P.Area Thirupathi,
Chittor District, Andhra Pradesh - 522 501.

3.The Divisional Manager,
United India Insurance Company Limited,
Motor Third party Claim Office,
No.66-68, Gandhi Road,
Kancheepuram.

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 31.03.2010 passed in M.C.O.P.No.121 of 2008 on the file of the Motor Accident Claims Tribunal / Sub Court, Kancheepuram.

For Appellant : Mr.C.Prabakaran
For RR1 & 2 : No appearance
For R3 : Mr.S.Arun Kumar

J U D G M E N T

The appellant is the claimant in M.C.O.P.No.121 of 2008 on the file of the Motor Accident Claims Tribunal / Sub Court, Kancheepuram. The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.1,50,000/- for the injuries sustained by the claimant in a road accident that took place on 30.11.2007.

2.The case of the claimant is that on 30.11.2007, she was traveling as a passenger in a bus bearing Registration No.AP 03 W 7575 belonging to the second respondent and insured

with the third respondent / United India Insurance Company Limited and was proceeding towards Kancheepuram from Kalasthiri. At about 5.00 P.M., when the bus was nearing Kooram Railway Gate, another bus bearing Registration No.TN 32 N 2034 belonging to the first respondent / Tamil Nadu State Transport Corporation Limited, hit the bus in which the claimant was traveling, as a result whereof, the claimant sustained injuries all over her body. According to the claimant, the rash and negligent driving of the driver of the bus belonging to the second respondent was the cause of the accident and that since the said bus was insured with the third respondent / United India Insurance Company Limited, the owner of the bus and its insurer are jointly and severally liable to pay compensation.

3.The learned Subordinate Judge, Motor Accidents Claims Tribunal, Kancheepuram after analyzing the evidence on record, fixed the negligence on the part of the driver of the bus belonging to the second respondent and directed both the second and third respondents to pay compensation of Rs.32,475/- together with interest at the rate of 7.5% per annum to the claimant. Aggrieved over the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4.Mr.C.Prabakaran, learned counsel appearing for the appellant / claimant contended that though Dr.Kalkoora (P.W.2) has assessed the partial permanent disability as 20%, the Tribunal has awarded a very meagre amount of Rs.32,475/- as compensation to the claimant.

5.Per contra, Mr.S.Arun Kumar, learned counsel appearing for the third respondent / United India Insurance Company Limited contended that the Tribunal after considering all the aspects of the case, awarded a just compensation of Rs.32,475/- and the same cannot be disturbed at this stage.

6.A perusal of the records shows that the claimant sustained grievous injuries on account of the accident and she was admitted as an inpatient from 01.12.2007 to 04.12.2007 as evidenced by the discharge summary, Ex.P3. The Tribunal after considering the oral and documentary evidence adduced on both sides, awarded a just compensation of Rs.32,475/- to the claimant and it does not warrant interference by this Court. In the facts and circumstances, the appeal fails and is dismissed.

7. In the result,

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

(ii) The orders passed by the Tribunal is upheld.

(iii) The third respondent / United India Insurance Company Limited is directed to deposit the compensation awarded by the Tribunal i.e., Rs.32,475/- (less the amount already deposited) 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.121 of 2008 on the file of the Motor Accident Claims Tribunal / Sub Court, Kancheepuram within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the appellant / claimant is at liberty to withdraw the same after following due process of law.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal,
The Sub Court,
Kancheepuram.

Copy to:

The Section Officer,
VR Section,
High Court, Madras-104.

+1cc to Mr.C.Prabakaran, Advocate SR.86795

C.M.A.No.3604 of 2010

VSNII (CO)
CB(20/01/2020)

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