

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1388 of 2015 and
M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Having Office at New Railway Station Road,
Kumbakonam. .. Appellant/Respondent

Vs.

Minor.Saravanan .. Respondent/Petitioner

(represented by his father and guardian Thangamuthu)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.09.2014 made in M.C.O.P.No.16 of 2014 on the file of the Motor Accident Claims Tribunal, Principal District and Sessions Court, Thiruvarur.

For Appellant : Mr.D.Venkatachalam

For Respondent : Mr.R.Raja Vignesh for
Mr.V.Vargees Amalraja

J U D G M E N T

The Civil Miscellaneous Appeal is filed against the award dated 24.09.2014 made in M.C.O.P.No.16 of 2014 on the file of the Motor Accident Claims Tribunal, Principal District and Sessions Court, Thiruvarur.

2.The appellant is the respondent in M.C.O.P.No.16 of 2014 on the file of the Motor Accident Claims Tribunal, Principal District and Sessions Court, Thiruvarur. The respondent filed the above said claim petition claiming a sum of Rs.50,000/- as compensation for the injuries sustained by him in the accident that took place on 26.06.2011.

3.The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging

the appellant-Transport Corporation and directed the appellant-Transport Corporation to pay a sum of Rs.25,000/- as compensation to the respondent.

4. Against the said award dated 24.09.2014 made in M.C.O.P.No.16 of 2014, the appellant-Transport Corporation has come out with the present appeal.

5. The learned counsel appearing for the appellant-Transport Corporation contended that the Tribunal erred in fixing negligence on the part of the driver of the bus belonging to the appellant-Transport Corporation when the complainant himself has stated that accident has occurred when the deceased, who was the rider of the motorcycle in which the respondent was traveling as pillion rider, tried to over take the bus, dashed against the rear side of the bus and caused the accident. P.W.1 is not an eye-witness. The Tribunal erred in accepting the evidence of P.W.1 and directed the appellant to pay a sum of Rs.25,000/- for simple injuries sustained by the respondent and prayed for setting aside the award passed by the Tribunal.

6. Per contra, the learned counsel appearing for the respondent contended that the driver of the bus suddenly turned to right hand side. The deceased, who is the rider of the motorcycle applied brake and dashed on the rear side of the bus. The accident occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation. F.I.R. was lodged only against the driver of the bus belonging to the appellant-Transport Corporation. The appellant has not let in any evidence to prove their contention that accident has occurred due to rash and negligent riding by the rider of the motorcycle. The Tribunal has granted only a sum of Rs.25,000/- as compensation and the same is not excessive and prayed for dismissal of the appeal.

7. Heard the learned counsel for the appellant as well as the respondent and perused the entire materials on record.

8. From the materials available on record, it is seen that the respondent has contended that accident has occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation. To substantiate his contention, father of the respondent was examined as P.W.1, who deposed the manner of the accident. To corroborate the evidence of P.W.1, the respondent marked Ex.P1/F.I.R. and Ex.P2/copy of Motor Vehicle Inspector's report. The appellant has not examined the driver of the bus to prove their contention that the accident has occurred only due to the negligence on the part of the rider of the motorcycle in which the respondent was traveling as pillion rider. In the absence of any contra

evidence, the Tribunal accepted the evidence of P.W.1 which was corroborated by Exs.P1 and P2 and held that the accident has occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation. There is no error in the above finding of the Tribunal warranting interference by this Court.

9.As far as quantum of compensation is concerned, the Tribunal has awarded a total sum of Rs.25,000/- as compensation for the injuries sustained by the minor respondent, which is not excessive. There is no error in the award passed by the Tribunal warranting interference by this Court.

10.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.25,000/- awarded by the Tribunal as compensation to the minor respondent, along with interest and costs is confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.16 of 2014 on the file of the Motor Accident Claims Tribunal, Principal District and Sessions Court, Thiruvavur. On such deposit, the Tribunal is directed to deposit the award amount in any one of the Nationalized Bank, till the minor respondent attains majority. On such deposit, the father of the minor respondent is permitted to withdraw the accrued interest, once in three months, for the welfare of the minor respondent. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VI)

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To

Sub Assistant Registrar

1. The Principal District and Sessions Judge,
Motor Accidents Claims Tribunal,
Thiruvavur.
2. The Section Officer,
VR Section, High Court, Madras.

+1 cc to M/s.V.Vargees Amal Raja, Advocate, S.R.No.30316

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SAI (CO)
SSM(18/09/2019)