

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1438 of 2015
and M.P.No.1 of 2015

The Managing Director,
Tamil Nadu Transport Corporation Ltd.,
Thiruvannamalai.
(amended from Villupuram to Thiruvannamalai
in I.A.No:1236 of 2009 on 19.11.2009)

.. Appellant /3rd Respondent

Vs.

1.Manjula ... 1st Respondent/Petitioner

2.Mari

3.General Manager,
Cholamandalam General Insurance Co., Ltd.,
'Dare House' 2nd floor, N.S.C.Bose Road,
Chennai - 600 001.

.. Respondents 2 & 3/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 27.04.2012, made in M.C.O.P.No.94 of 2011, on the file of the Motor Accident Claims Tribunal, 3rd Additional District Court, Thirupathur.

For Appellant : Mr.K.J.Sivakumar

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J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 27.04.2012, made in M.C.O.P.No.94 of 2011, on the file of the Motor Accident Claims Tribunal, 3rd Additional District Court, Thirupathur.

2.Heard the learned counsel appearing for the appellant and perused the materials available on record.

3.The appellant-Transport Corporation is 3rd respondent in M.C.O.P.No.94 of 2011, on the file of the Motor Accident Claims Tribunal, 3rd Additional District Court, Thirupathur. The first respondent filed the said claim petition, claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by her in the accident that took place on 09.10.2008. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by both the driver of the auto as well as the driver of the bus belonging to the appellant-Transport Corporation and fixed 50% of negligence on both and directed the appellant-Transport Corporation to pay 50% of total compensation i.e.,Rs.1,30,000/- to the 1st respondent. Challenging the said award dated 27.04.2012, made in M.C.O.P.No.94 of 2011, granting compensation to the 1st respondent and fixing 50% liability the appellant-Transport Corporation has come out with the present appeal.

4.The contention of the learned counsel appearing for the appellant-Transport Corporation is that the Tribunal erred in fixing 50% of negligence on the part of the driver of the appellant bus and 50% of liability on the appellant-Transport Corporation and the amounts awarded by the Tribunal under various heads are excessive, are contrary to the materials on records. The Tribunal has considered the evidence of first respondent as P.W.1, who is injured eye witness and Ex.P1/F.I.R. and held that the accident occurred only due to rash and negligent driving by both the driver of the auto as well as the driver of the bus belonging to the appellant-Transport Corporation. The Tribunal has considered the evidence of P.W.2-Doctor who assessed the percentage of disability suffered by the 1st respondent as 58% and reduced the percentage of disability to 40% and awarded a sum of Rs.40,000/- towards permanent disability. The Tribunal has considered the entire materials on record and awarded a total sum of Rs.2,60,000/- as compensation to the 1st respondent, which is just compensation and not excessive. There is no error in the award of the Tribunal warranting interference by this Court.

5.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.2,60,000/- awarded by the Tribunal as compensation to the 1st respondent/claimant, along with interest and costs is confirmed. The appellant-Transport Corporation is directed to deposit 50% of the award amount i.e.,Rs.1,30,000/- 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.94 of 2011. On such deposit, the 1st respondent/claimant is permitted to withdraw the award amount, along with interest and costs, after adjusting the amount, if any already withdrawn, by filling necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The III Additional District Judge,
Motor Accident Claims Tribunal,
Thirupathur, Vellore District.

2.The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.K.J.Sivakumar, Advocate sr.6673

C.M.A.No.1438 of 2015
and M.P.No.1 of 2015

cnr(co)
nr 22/07/2019

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