

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2552 of 2013

and

MP.No.1 of 2013

The Managing Director,
Tamil Nadu Transport Corporation (VPM) Ltd.
Villupuram. Appellant /Respondent

Vs.

Tamizharasi Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 17.02.2012 made in MCOP.No.278 of 2008 on the file of Motor Accidents Claims Tribunal, Second Subordinate Judge, Villupuram.

For Appellant : Mr. A.Antony Arokia Raja

For Respondent : Mr.V.S.Sivasundaram

J U D G M E N T

This appeal is preferred by the Transport Corporation against the award of a sum of Rs.9,500/- towards compensation to the respondent/claimant due to the injuries sustained by her in a motor vehicle accident.

2. The case in brief is as follows:

On the fateful day, i.e., on 17.05.2007, about 4.10 hours, when the respondent/claimant was traveling as a passenger in a bus bearing Registration No.TN-21-N-1003 belonging to the appellant Transport Corporation from Trichy to Chennai. When the bus was nearing Poomalai Sanjeevirayan Temple of Padalur Village, which was driven by its driver in a rash and negligent manner, it dashed against an unknown lorry, which was coming from the opposite direction. Due to the said impact, the respondent/claimant sustained grievous injuries, for which, he filed a claim petition claiming a sum of Rs.1,00,000/- as

compensation. On consideration of the materials and evidence available on record, the Tribunal concluded that the accident had occurred due to the fault on the part of the drivers of both the bus as well as the unidentified lorry and accordingly, fixed the liability on the part of the appellant Transport Corporation at 50% and awarded a total compensation of Rs.19,000/- with interest at the rate of 7.5% per annum from the date of petition. Challenging the 50% liability (Rs.9,500/-) fixed on the appellant Transport Corporation, the present appeal came to be filed.

3. The learned counsel for the appellant Transport Corporation has only disputed the liability fixed on the Transport Corporation. According to him, the driver of the bus, in which, the respondent/claimant was travelling, drove the vehicle at a moderate speed and the driver of the unidentified lorry alone drove the vehicle in a rash and negligent manner and caused the accident. The learned counsel further submitted that the Tribunal failed to note that the FIR was registered only against the driver of the lorry. Hence, the learned counsel prayed to allow this appeal by exonerating the appellant Transport Corporation fully from its liability to pay compensation to the respondent/claimant.

4. On the other hand, the learned counsel for the respondent/claimant submitted that the Tribunal after a detailed analysis, rightly decided the question on negligence and fixed the liability on both the owners and awarded the just compensation, which warrants no interference at the hands of this Court.

5. Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

6. The learned counsel for the appellant Transport Corporation has not disputed the finding of the Tribunal with regard to the quantum of compensation awarded to the respondent/claimant at Rs.19,000/- with interest at 7.5% p.a. and hence, the same need not be interfered with by this Court.

7. As regards the finding on negligence, the Tribunal has taken note of Ex.P1 FIR, which shows that the unidentified lorry was responsible for the accident. PW1 /respondent/claimant in her evidence, has deposed that on 17.05.2007 about 4.10am, she travelled as a passenger in the bus bearing Regn.No.TN21 N 1003 from Trichy to Chennai; when the bus was nearing Padalur, the driver of the bus drove it in a rash and negligent manner and dashed against the unknown lorry which was coming from the

opposite direction and thereby, caused the accident. To disprove the said version of PW1, neither driver nor conductor of the bus was examined on the side of the appellant Transport Corporation. In such circumstances, the Tribunal has drawn an adverse inference against the driver of the bus and rightly come to the conclusion that the driver of the bus was also responsible for the accident and accordingly, fixed 50% liability on the appellant Transport Corporation to pay the compensation to the respondent/claimant. The said finding of the Tribunal, in the opinion of this Court, does not call for any interference, as the same is based on the materials and evidence adduced before it.

8. Thus, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant Transport Corporation is directed to deposit 50% of award amount i.e., Rs.9,500/- with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the Tribunal shall transfer the same to the savings bank account of the respondent/claimant through RTGS, within a period of one week thereafter. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

The Second Subordinate Judge,
The Motor Accidents Claims Tribunal,
Villupuram.

Copy to

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

+1cc to Mr.V.S.Sivasundaram, Advocate Sr.61783

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srg 04/02/2020