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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.3384 and 3885 of 2012
and M.P.Nos.1 and 1 of 2012

The Managing Director,
Tamil Nadu State Transport
Corporation Limited, Head Office,
37, Mettupalayam Road,
Coimbatore.

...

Appellant in both CMAs/2nd
Respondents in both CMA's

Vs

1. Parvathy ...1st Respondent/Petitioner
2. D.Chandran ...2nd Respondents in CMA.No.3384 of 2012/
1st Respondent

1. S.Parvathy ...1st Respondent/Petitioner
2. D.Chandran ...2nd Respondents in CMA.No.3385 of 2012/
1st Respondent

Appeals under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 02.11.2010 made in MCOP No.25 & 27
of 2010 on the file of the Motor Accidents Claims Tribunal
(District Judge), Nilgiris, Udthagamandalam.

For Appellant : Mr.S.S.Swaminathan

For R1 : died
in CMA.3384/2012

For R1 : No appearance
in CMA.3385/2012

JUDGMENT

The case in brief, is as follows:

On 15.06.2009, one H.Parvathy and S.Parvathy, first
respondent in these appeals, were travelling in the bus bearing
registration No.TN-43-N-0427 on the Kookathurai - Kothagiri Main
Road. At about 7.30p.m, when the bus reached near Uyilatti Water



Falls, due to the rash and negligent driving by its driver, the bus came backwards and fallen into a pit at the depth of 100 feet. Due to the same impact, the first respondent in these appeals along with others who travelled in the bus, sustained grievous injuries. The first respondent in these appeals filed separate claim petitions before the Tribunal claiming a sum of Rs.8,00,000/- each as compensation. The Tribunal, based on the materials available on record, awarded a sum of Rs.1,00,000/- in respect of the claimant in C.M.A.No.3384 of 2012 and a sum of Rs.1,30,000/- in respect of the claimant in C.M.A.No.3385 of 2012.

2.Challenging the same, these appeals have been filed by the Transport Corporation.

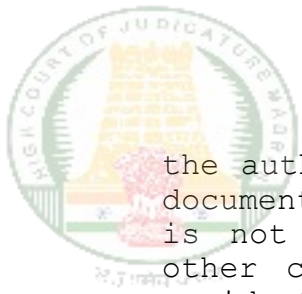
3.The learned counsel for the appellant Transport Corporation, at the outset, submitted that the Tribunal has erred in coming to the conclusion that the accident had occurred due to rash and negligent driving of the driver of the appellant Transport Corporation bus. He further submitted that the amounts awarded under each and every heads by the Claims Tribunal are against the settled principles of law.

4.The appellant has not taken steps to implead the legal heirs of the deceased first respondent in CMA.No.3384 of 2012. Despite service of notice, there is no representation for the first respondent in CMA.No.3385/2012. However, due to paucity of time, both these appeals are taken up for final disposal on merits.

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

6.As far as the negligent aspect is concerned, no contra evidence has been adduced against the evidence of P.Ws.1 to 9 (injured persons in the accident), who have deposed in clear and categorical terms that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation. Hence, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus, which finding this Court is not inclined to interfere.

7.With regard to the quantum of compensation, the Tribunal has discussed in detail the ancillary documents to prove the nature of injuries and period of treatment taken by the claimants. The claimants have produced the discharge summaries pertaining to the treatment taken by them in the hospital. The medical bills also support the version of P.Ws.2 and 4, the claimants herein. Though the Doctor was not examined to prove



the authenticity of the documents produced by the claimants, the documents produced would speak for itself. Further, the accident is not only related to these two claimants, but there are 7 other claimants who sustained injuries in respect of the same accident. The Tribunal has in fact, taken all the 9 MCOPs together and passed a common award quantifying separately. The compensation amounts awarded by the Tribunal at Rs.1,00,000/- to the claimant in C.M.A.No.3384 of 2012 and Rs.1,30,000/- to the claimant in C.M.A.No.3385 of 2012, out of the claimed amount of Rs.8,00,000/- in each of the MCOPs, are very reasonable and are based on settled principles of law, weightage of evidence and documents produced on either side and hence the same are confirmed.

8.In the result, the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

9.The appellant Transport Corporation is directed to deposit the award amounts with interest and costs, as ordered by the Tribunal, after deducting the amounts, 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 legal heirs of the first respondent in CMA.No.3384/2012 and the first respondent in CMA.No.3385/2012 are permitted to withdraw the same on making proper application before the Tribunal.

Sd/-

Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

vum/srk

To

1.The Motor Accidents Claims Tribunal/
District Judge, Nilgiris,
Udhagamandalam.

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

+2cc to Mr.S.S.Swaminathan, Advocate, S.R.No.60471, 60472

C.M.A.Nos.3384 and 3885 of 2012
and M.P.Nos.1 and 1 of 2012

BP(CO)
CB(10/08/2021)