

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3206 of 2008

The Managing Director,
Tamil Nadu State Transport Corporation,
(Villupuram Division I) Ltd.,
Villupuram.

...Appellant/3rd Respondent

Vs

1. Dr.Subramaniyan

2. M/s.Madras Road Lines,
Near Meena Theatre
Kumarapalayam Main Road,
Pallippalayam,
Salem District.

3. The Oriental Insurance Company Limited,
Divisional Officer,
Parimalam Complex,
No.11 E V N Road,
II Floor,
Erode-11.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree dated 05.04.2002 passed in M.C.O.P.No.1441 of 1994, on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Villupuram.

For Appellant : Mr.G.Muniratnam

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J U D G M E N T

This Civil Miscellaneous Appeal is filed by the appellant / Transport Corporation against the award dated 05.04.2002 passed in M.C.O.P.No.1441 of 1994, on the file of Motor Accidents Claims Tribunal, Principal District Court, Villupuram.

2.The case of the first respondent herein is that on 04.04.1994 at about 23.45 hours, the first respondent was travelling in the bus belonging to the appellant Transport Corporation bearing Reg.No.TN-32-N-0343 from Thiyyagadurgam to Madras on the Salem - Ulundurpet Main Road. When the bus reached near A.Puthur village, the lorry bearing Reg.No.TDL-7972 belonging to the second respondent and insured with the third respondent herein, came in a rash and negligent manner and dashed against the bus, which in turn, dashed against a tamarind tree. Due to the said impact, the first respondent sustained grievous injuries. The first respondent filed a claim petition claiming a compensation of Rs.10,00,000/-. Considering the materials and evidence available on record, the Tribunal has awarded a sum of Rs.8,13,500/- with interest at the rate of 9% per annum from the date of petition. Giving a finding that the accident had occurred due to the negligent driving of both the drivers of the vehicles, the Tribunal fixed the liability on the part of the appellant Transport Corporation and the third respondent Insurance Company, equally.

3.Challenging the 50% liability and the quantum of compensation, the present Civil Miscellaneous Appeal is filed by the appellant Transport Corporation.

4.The learned counsel for the appellant Transport Corporation has submitted that the Tribunal has erred in coming to the conclusion that the driver of the appellant's bus was also negligent in driving the bus. It is also submitted that the compensation awarded by the Tribunal is excessive.

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

6.Though this appeal was admitted way back in the year 2008, the appellant has not taken proper steps to serve papers on the other side even at this length of time. However, due to paucity of time, this Court is inclined to dispose this appeal on merits.

7.It is seen from the award passed by the Tribunal that the contents of the F.I.R coupled with the evidence of P.W.1 would prove that the negligence was on the part of both the drivers. The Tribunal has observed that had both the drivers been cautious they would have averted the accident. Further it was a

head-on-collision of both the vehicles. Considering the materials and evidence available on record, the Tribunal came to the conclusion that the accident had occurred only due to the negligent driving of both the drivers. This Court is not inclined to interfere with the said factual finding arrived at by the Tribunal.

8. In respect of the quantum of compensation, the Tribunal has awarded a sum of Rs.5,46,000/- towards loss of income. The said sum has been quantified fixing the monthly income of the claimant at Rs.3,500/- as an Ophthalmologist, arriving at the annual income at Rs.42,000/- and adopting the multiplier of 13. The Tribunal has also awarded a sum of Rs.1,27,500/- towards medical expenses based upon Ex.P5 to Ex.P172-Medical bills, Rs.20,000/- towards transportation, Rs.25,000/- towards Extra Nourishment, Rs.75,000/- towards surgery and Rs.20,000/- towards pain and suffering. Further, it is not in dispute that the claimant himself is a Doctor (Ophthalmologist) and he suffered fractures on his left leg, left radius and ulna and also fractures of the tibia and fibula bones. In these circumstances, considering the materials and evidence available on record, the Tribunal has awarded the above compensation amounts reasonably and hence, the same need not be interfered with by this Court.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

10. The appellant / Transport Corporation is directed to deposit the compensation amount (50% of the total compensation amount) as ordered by the Claims Tribunal, along 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 judgment. On such deposit being made, the first respondent / claimant is permitted to withdraw the same on making proper application before the Tribunal.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

gbi / srk

To

1.The Principal District Judge,
Motor Accidents Claims Tribunal,
Villupuram.

2.The Section Officer,
V.R.Section,
High Court,
Madras.

+1 CC to Mr.G.Muniratnam, Advocate sr 57740.

C.M.A.No.3206 of 2008

VGII (CO)
SP(08/06/2020)



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