

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. No. 3556 of 2008

1.Natarajan (died)

2.Susila

3.Vijayendran

4.Saritha

... Appellants/ Petitioners

(Appellants 2 to 4 brought on record as legal heirs of the deceased sole appellant viz., Natarajan vide order dated 18.09.2019 made in C.M.P. Nos. 19073, 19077 & 19085 of 2019 in C.M.A. No. 3556 of 2008)

Vs.

The Managing Director,

Tamil Nadu State Transport Corp. Ltd.,

Kumbakonam Town & Taluk.

... Respondent/ Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 15.02.2008, made in M.C.O.P. No. 14 of 2006, on the file of the Motor Accident Claims Tribunal, Tiruvarur.

For Appellants : Mr. M. Thamizhvel

For Respondent : Mr. D. Venkatachalam

J U D G M E N T

This Civil Miscellaneous Appeal has been filed challenging the dismissal of the award dated 15.02.2008, made in M.C.O.P. No. 14 of 2006, on the file of the Motor Accident Claims Tribunal, Tiruvarur.

2.The 1st appellant is the claimant in M.C.O.P. No. 14 of 2006, on the file of the Motor Accident Claims Tribunal, Tiruvarur. He filed the said claim petition, claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 06.06.2005.

3.According to the 1st appellant, on the date of accident, viz., 06.06.2005, while he was travelling in the Bus bearing

Registration No. TN-49-0739, belonging to the respondent-Transport Corporation from Karaikal to Kumbakonam, when the Bus stopped at Poondhottam Pillayar Kovil bus stop for the passengers to alight, the Driver of the Bus without noticing the alighting of 1st appellant, started the Bus and drove the same in a rash and negligent manner. Due to the said negligent act of the Driver, the 1st appellant fell down and sustained injuries. The accident had occurred only due to rash and negligent driving by the Driver of the respondent Bus and hence, the appellant filed the present claim petition, claiming compensation against the respondent as owner of the said vehicle.

4.The respondent-Transport Corporation filed counter statement and denied all the averments made by the 1st appellant in the claim petition. According to the respondent, on the alleged date of accident, the respondent Bus completed its trip without causing any accident. The 1st appellant with a sole motive to claim compensation, has falsely filed the present claim petition. In any event, the total compensation claimed by the 1st appellant is exorbitant and prayed for dismissal of the claim petition.

5.Before the Tribunal, the appellant examined himself as P.W.1 and marked 3 documents as Exs.P1 to P3. The respondent examined the Driver of their Bus as R.W.1, but did not mark any documents as exhibits.

6.The Tribunal considering the pleadings, oral and documentary evidence, dismissed the claim petition on the ground that the 1st appellant failed to prove the occurrence of accident, negligence of the Driver of the respondent-Transport Corporation Bus and the injuries suffered.

7.Challenging the dismissal order dated 13.02.2008, made in M.C.O.P. No. 14 of 2006, the 1st appellant has come out with the present appeal. Pending Civil Miscellaneous Appeal, the 1st appellant/injured claimant died and his legal heirs were impleaded as appellants 2 to 4 vide order dated 18.09.2019 made in C.M.P. Nos. 19073, 19077 & 19085 of 2019 in C.M.A. No. 3556 of 2008.

8.Learned counsel appearing for the appellants contended that the Tribunal failed to consider the evidence of 1st appellant as P.W.1, who is an eye-witness, who deposed as to how the accident has occurred. The Tribunal failed to see that FIR was registered against the Driver of the respondent-Transport Corporation Bus, which proves the occurrence of accident. The appellant has proved the manner of the accident and injuries sustained by him in the said accident. The Tribunal erroneously dismissed the claim petition and prayed for setting

aside the award of the Tribunal and for granting compensation to the appellants.

9.Per contra, Mr. D. Venkatachalam, learned counsel appearing for the respondent-Transport Corporation made submissions in support of the award passed by the Tribunal.

10.Heard the learned counsel appearing for the appellants as well as well as the respondent and perused the materials available on record.

11.From the materials on record, it is seen that the Tribunal considering the evidence of 1st appellant as P.W.1, R.W.1 - Driver of the Bus and Ex.P2 - Accident Register, held that the accident would not have occurred at 6.00 p.m., as alleged by the 1st appellant, as he was admitted in the Hospital at 5.40 p.m. The complaint was given belatedly by one Kennedy and he was not examined to prove the contents of the FIR. In Ex.P2 - Accident Register, it has been stated that the 1st appellant sustained injuries when he jumped from the Bus. In Ex.P2 - the registration number of the Bus was not mentioned. The Tribunal considering the above materials, held that the 1st appellant would not have sustained injuries as alleged by him, from falling from the bus. The Tribunal considering all the materials on record, dismissed the claim petition, by giving valid reasons. There is no error in the said reasoning of the Tribunal warranting interference by this Court.

12.In the result, the appeal is dismissed and the award of the Tribunal is confirmed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gsa
To

1.The Motor Accident Claims Tribunal, Tiruvarur.

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

+lcc to Mr.D. Venkatachalam , Advocate SR.No. 20710

C.M.A. No. 3556 of 2008

A.SK(28.12.2020)