

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2020

CORAM:

THE HON'BLE Mrs. JUSTICE V.BHAVANI SUBBAROYAN
Civil Miscellaneous Appeal No.3372 of 2013
& M.P.No.1 of 2013

The General Manager,
TamilNadu State Transport (VPM DIV II)
Corporation Ltd., Rangapuram,
Vellore -9. ... Appellant/1st respondent

...vs...

1. N. Vetri Suresh Kumar ...1st Respondent/ Petitioner
2. P. Ravi ...2nd respondent/2nd respondent
3. The Divisional Manager, National Insurance
Company Limited, Officer Line,
Vellore 632 001. ...3rd Respondent/3rd respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and Judgment passed by the Motor Accidents Claims Tribunal, II Additional District and Sessions Judge, (MACT) Ranipet, made in M.C.O.P.No.14 of 2008 dated 08.03.2013 and allow this C.M.A.

For Appellant : Mr. S.V. Vasantha Kumar
For Respondent-1 : Mr.C.Prabakaran
For Respondent-3 : Mrs. N.B. Surekha
R2 : Given Up

J U D G M E N T

This Civil Miscellaneous Appeal has been filed to set aside the decree and Judgment passed by the Motor Accidents Claims Tribunal, II Additional District and Sessions Court, Ranipet, made in M.C.O.P.No.14 of 2008 dated 08.03.2013

2. In respect of an accident that took place on 11.09.2005 at about 02.30 am at Chennai to Bangalore National Highway opposite to Perumal Nagar, Karugambathur, the injured, N.Vetri Suresh Kumar (first

respondent herein) has filed a petition for compensation for a sum of Rs.2,00,000/-. As against the said claim, the Tribunal has awarded a sum of Rs.1,00,000/- as total compensation. Against which, the Transport Corporation has filed the Appeal.

3. The learned counsel for the Appellant/Transport corporation submitted that at the time of accident the bus was diverted in a wrong direction for the reason that there was a road work going on in the National Highways. The accident occurred due to the rash and negligence on the part of the driver of the lorry. He would further contend that all the particulars in the claim petition are false. In any event the award passed by the Tribunal is excessive.

4. The learned counsel for the first respondent submitted that the appellant/Transport corporation in the counter affidavit filed by them has admitted that the bus went in a wrong direction due to the road work going on in the National Highways. Hence, the fault is on the part of the driver of the bus.

5. The learned Counsel for the third respondent/Insurance Company submitted that the driver of the lorry did not possess valid driving licence at the time of accident. The Insured cannot enjoy the benefits of the policy if the driver of the lorry does not possess valid driving licence at the time of the accident. In any event the award passed by the Tribunal is very high.

6. The Tribunal taking into account the grievous injury suffered by the claimant has calculated the head pain and sufferings at Rs.40,000/- and P.W.2/Doctor certified that the claimant suffered disability at 30% and considering the year of accident, Rs.1,000/- per percentage is applied and Rs.30,000/- is awarded towards the head disability. Apart from this Rs.20,000/- has been awarded towards Transportation, Medicines, nutritious food and other incidental expenses. With regard to loss of income he is working as a conductor and was earning Rs.10,000/- salary per month. Due to the accident he was not able to work for at least one month. Hence, Rs.10,000/- is awarded toward the head loss of income. Thus, the total compensation was estimated at Rs.1,00,000/-.

7. This Court is of the opinion that the compensation awarded under all the heads by the Tribunal are reasonable, weight of evidence and based on settled principles and therefore, there is no ground to interfere with the judgment passed by the Tribunal below. Further, the grounds taken by the Transport Corporation on the point of liability cannot be raised at this stage and therefore, it cannot be accepted at this distant point of time. Therefore, the grounds raised by the Transport Corporation are liable to be rejected and they are rejected accordingly. The compensation awarded by the Tribunal is just, fair and reasonable.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Transport Corporation shall deposit the entire compensation amount, along with interests and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of eight weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent is directed to withdraw the same by filing appropriate application before the Tribunal. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.II Additional District and Sessions Court,
Motor Accident Claims Tribunal, Ranipet, Velore District

2.The Section Officer, V.R.Section, Madras High Court,
Chennai 104

+1cc to Mr.C.Prabhakaran , Advocate SR.No. 10359

+1cc to Mr.N.B.Surekha , Advocate SR.No. 10233

C.M.A.No.3372 of 2013
& MP No.1 of 2013

A.SK(21/09/2020)