



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.No.1934 of 2020
and
CMP No.14293 of 2020

The Managing Director,
Tamilnadu State Transport Corporation Limited,
Ramakrishna Road, Salem. ... Appellant

Vs.

U. Jaishankar ... Respondent

PRAYER:- Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 31.08.2018 passed in MCOP.No.5 of 2016 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Hosur .

For Appellant : Mr. D.Venkatachalam

For Respondent : Mr. C.Prabakaran

J U D G M E N T

Feeling aggrieved with the award passed by the Motor Accidents Claims Tribunal (Additional District Judge), Hosur in MCOP No.5 of 2016, the Transport Corporation has filed this Appeal.

2. The brief facts leading to file the appeal are as follows:-

On 28.10.2015, while the petitioner was riding his motorcycle from Attibele to Hosur Road, a bus bearing Registration No.TN 29 N 1642, belongs to the appellant Corporation, came in a rash and negligent manner and suddenly



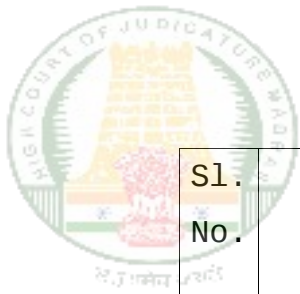
stopped the bus without giving any signal. Due to which, the claimant dashed against the bus and sustained head injury and also suffered multiple injuries all over the body. Immediately, he was taken to the Government Hospital, where, first aid was given to him and thereafter, he was referred to NIMHANS Hospital, Bangalore. At the time of accident, the claimant was 40 years old and he was working as a salesman in the wine shop and earning a sum of Rs.10,000/- per month. Hence, he has filed the claim petition seeking compensation of Rs.15 lakhs.

3. The respondent/ Transport Corporation contested the claim petition stating that the accident has taken place due to the negligent driving of the claimant. The driver of the bus has stopped the bus only in the bus stop on the left side of the road, only the claimant, who came in a rash and negligent manner, dashed against the bus from behind. Hence, no negligence can be fixed on the Transport Corporation Bus. That apart, the driver of the Transport Corporation bus has given a complaint. Based on which, First Information Report was registered. He has also disputed the nature of the injuries sustained by the injured and also stated that compensation claimed by the claimant is excessive.

4. In order to prove the case, before the Tribunal, the claimant examined himself as P.W.1 and marked as many as 21 exhibits. On the side of the respondents, no witness has been examined and one document has been marked.

5. The Tribunal, after considering the materials available on records, came to the conclusion that the occurrence has taken place due to the rash and negligent driving of the driver of the bus and fixed the negligence on the driver of the bus and the Tribunal awarded compensation under various heads as follows :-

Sl. No.	Headings	Amount awarded by the Tribunal Rs.
1	Permanent Disability	Rs.60,000/-
2	Medical Expenses	Rs.72,863/-
3	Future Medical Expenses	Rs.20,000/-



WEB COPY

Sl. No.	Headings	Amount awarded by the Tribunal Rs.
4	Transportation Charges	Rs.10,000/-
5	Nutrition Charges	Rs.10,000/-
6.	Attender Charges	Rs.10,000/-
7.	Pain land sufferings	Rs.15,000/-
8,	Discomfort, frustration and loss of social enjoyment	Rs.10,000/-
9.	Partial loss of income	Rs.27,000/-
	Total	Rs.2,34,863/-

Now, aggrieved over the same, the Transport Corporation is before this Court with this appeal.

6. Heard both sides and perused the materials available on records carefully.

7. From the materials available on records, it could be seen that the driver of the Transport Corporation bus has driven the bus from Attibele to Hosur and stopped the bus suddenly without any indication. The claimant, who has driven the two wheeler, dashed against the bus from behind. Even though it is stated that the accident has taken place due to the negligent driving of the claimant, the respondent Corporation did not examine any witness, much less, the driver of the bus. Merely because the First Information Report has been filed based on the complaint lodged by the driver of the bus, it is not the ground to fix the negligence on the injured claimant. The Tribunal, rightly, fixed the negligence on the respondents. So far as the disability is concerned, the Tribunal fixed the disability at 15% after considering the nature of the injuries sustained by the claimant and the Tribunal fixed Rs.4,000/- towards each percentage of disability and granted a sum of Rs.60,000/- towards disability and a sum of Rs.72,863/- was granted towards medical expenses and under other heads also a reasonable amount has been granted by the Tribunal. In the said circumstances, the compensation awarded by the Tribunal cannot be held excessive. Considering the above circumstances, I find no merit in the appeal, and the appeal is liable to be dismissed.



8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

mrp

To:
The Additional District Court,
Motor Accidents Claims Tribunal,
Hosur.

+1CC to M/s.C.Prabakaran, Advocate, SR.No. 42712
+1CC to Mr.D.Venkatachalam, Advocate, SR.No. 42752

C.M.A.No.1934 of 2020

GP(CO)
B.VC (20/09/2021)