

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-08-2020

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A. No.3891 of 2019
and
C.M.P.No.22260 of 2019

The Managing Director,
Tamil Nadu State Transport Corporation,
New Railway Station Road,
Kumbakonam-612 001.

... Appellant / 1st Respondent

vs.

1.Murugan
2.Shanthi
3.Ranjith Kumar
4.Bhuvaneshwari

.... Respondents / Claimants

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 03.04.2019 passed in M.C.O.P. No.115 of 2014 on the file of the learned Additional District Judge, Additional District Court-cum-Motor Accidents Claims Tribunal, Ariyalur.

For Appellant : Mr.D.Venkatachalam

For Respondents : No Appearance

J U D G M E N T

The present Civil Miscellaneous Appeal on hand is preferred against the judgment and decree dated 03.04.2019 passed in M.C.O.P. No.115 of 2014 on the file of the learned Additional District Judge, Additional District Court-cum-Motor Accidents Claims Tribunal, Ariyalur.

2. The Tamil Nadu State Transport Corporation is the appellant.

3. The learned counsel appearing on behalf of the appellant-Transport Corporation mainly contended that the present Civil Miscellaneous Appeal is filed mainly on the ground of negligence. In view of the fact that the First Information Report was filed against the deceased person, who was riding the two wheeler and hit against the Transportation Corporation Bus.

4. The accident occurred on 25.06.2013 at about 11.15 P.M. near Chennai-Kumbakonam Highways Road. Meensuruti Police Station registered a case in Crime No.250 of 2013 under Sections 279, 337 and 304(A) of IPC. The deceased died on the spot and the FIR was filed against the deceased.

5. The contention of the appellant-Transport Corporation is that when the accident occurred due to the negligent act of the deceased person, the Tribunal ought not to have fixed the liability on the appellant-Transport Corporation and therefore, the award is liable to be scrapped.

6. The driver of the appellant-Transport Corporation was examined as witness as well as the Sub Inspector of Police. Both the witnesses have deposed that the rider of the two wheeler had committed the act of negligence by driving the Motorcycle in a rash and negligent manner. In spite of the evidence, the Tribunal has fixed the liability on the appellant-Transport Corporation.

7. Perusal of the award reveals that the rough sketch was considered by the Tribunal. The Sub Inspector of Police deposed that the appellant-Transport Corporation Bus was proceeding from South to North and the rough sketch also shows the same position. The Sub Inspector of Police deposed that the two wheeler was coming from South to North. On that basis, the Tribunal has proceeded and found that the appellant-Transport Corporation Bus was not driven on the left side of the road. Contrarily, the appellant-Transport Corporation Bus was driven on the right side of the road and on account of the fact that the appellant-Transport Corporation Bus driver was driving the vehicle on the right side of the road, which resulted in an accident and accordingly, the negligence was fixed on the driver of the appellant-Transport Corporation Bus.

8. Though the appellant-Transport Corporation Bus driver has deposed that the rider of the two wheeler has committed the act of negligence as well the Inspector of Police also deposed, the Tribunal independently considered the possibility as well as the proximity, so as to arrive a conclusion. The Courts are bound to consider all these aspects while fixing the negligence. It is

not preferable always that the copy of the FIR is to be relied upon and the deposition of the Police Officials to be trusted upon. Independent analysis of the facts and circumstances as well as the documents are highly warranted, so as to arrive a fair conclusion.

9. In the present case, the learned counsel for the appellant-Transport Corporation made a submission that both the driver of the Transport Corporation Bus as well as the Sub Inspector of Police deposed in clear terms that the rider of the two wheeler/deceased had committed an act of negligence. FIR was also registered against the deceased. However, the Tribunal has drawn a clear inference based on the documents and identified that the appellant-Transport Corporation Bus was not driven on the left side of the road and contrarily, the appellant-Transport Corporation Bus was driven by the driver on the right side of the road, which could be the possible reason for the accident.

10. This being the categorical findings of the Tribunal, this Court do not find any error or additional ground to repudiate the findings. Thus, the findings of the Tribunal in fixing the negligence on the part of the driver of the appellant-Transport Corporation Bus stands confirmed.

11. As far as the quantum of compensation is concerned, the deceased was running a Mess and the monthly income of the deceased was fixed as Rs.6,000/-. The accident occurred during the year 2013 and therefore, fixation of a sum of Rs.6,000/- as income per month cannot be construed as excessive. Therefore, this Court is not inclined to interfere with the quantum of compensation awarded by the Tribunal.

12. Accordingly, the judgment and decree dated 03.04.2019 passed in M.C.O.P. No.115 of 2014 on the file of the learned Additional District Judge, Additional District Court-cum-Motor Accidents Claims Tribunal, Ariyalur stands confirmed and consequently, the C.M.A.No.3891 of 2019 stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

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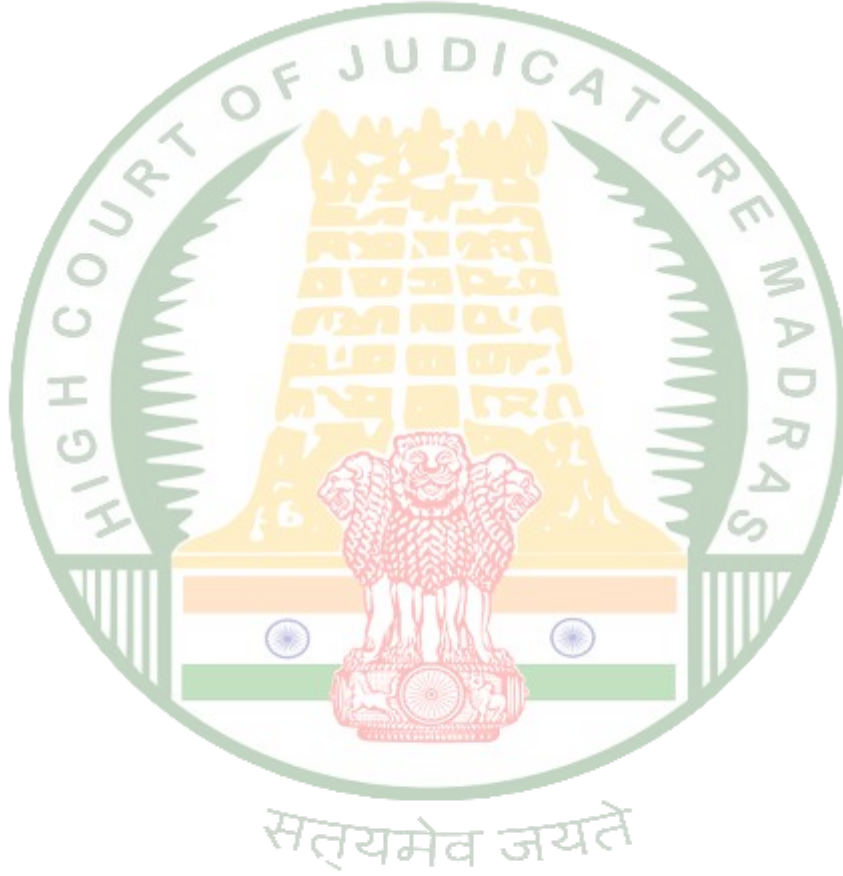
To

1. The Additional District Judge,
Additional District Court-cum-Motor Accidents Claims
Tribunal,
Ariyalur.

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

CMA No.3891 of 2019

RSV(CO)
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