



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2021

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.1523 of 2021 and
C.M.P.No.7995 of 2021

The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Trichy.

...Appellant

vs.

1. Ayyappan

2. Natarajan

3. The Branch Manager ,
United India Insurance Company Limited,
50A, Pallivasal Street,
Perambalur (Dt) - 621 212.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 02.11.2020 made in M.C.O.P.No. 53 of 2018 on the file of the Motor Accident Claims Tribunal, Additional District & Sessions Judge, Ariyalur.

For Appellant : Mr. D. Venkatachalam

For Respondents : Mr. R. Jayaprakash for R1
M/S. I. Malar for R3
No appearance for R2

J U D G M E N T

This Appeal has been filed by the Transport Corporation challenging the Award dated 02.11.2020 passed by the Motor Accident Claims Tribunal, Additional District and Sessions Judge, Ariyalur, in M.C.O.P.No. 53 of 2018, directing the Appellant/Transport Corporation to pay the Claimant/First



Respondent 50% of Rs.30,000/- (the compensation awarded by the Tribunal) for the injuries sustained in an accident which occurred on 06.08.2013 involving the bus owned by the Appellant/Transport Corporation.

WEB COPY

2. Before the Tribunal, the First Respondent/Claimant claimed a sum of Rs.5,00,000/- as compensation for the injuries sustained by him. On the side of the First Respondent/Claimant, P.W.1 was examined as witness and Exs.P1 to P9 were marked before the Tribunal. On the side of the Appellant/Transport Corporation, no witness was examined and no exhibit was marked.

3. On consideration of the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.30,000/- as compensation to the First Respondent/Claimant, out of which 50% was directed to be payable by the Appellant/Transport and remaining 50% was directed to be payable by the Third Respondent/Insurance Company.

4. Heard the learned counsel for the parties and perused the material documents available on record.

5. The Appellant has challenged the impugned award on the ground that the learned Trial Judge failed to consider the F.I.R which has been registered against the driver of the Tata Sumo, in which the Claimant was travelling. He further submitted that the Claims Tribunal has erroneously fixed 50% negligence on the side of the Appellant/Transport Corporation and the overall compensation awarded to the Claimant is very high and the same needs to be reduced.

6. Insofar as the first contention raised by the Appellant is concerned, though F.I.R has been registered against the driver of the Tata Sumo, from Exs.R1 & R2 -Rough sketch, it is clear that the accident occurred not only due to the negligence on the part of the vehicle travelled by the Claimant, but also on the part of the driver of the Transport Corporation. By taking note of the fact that the Appellant's vehicle is a heavy vehicle and the major loss would be caused to TATA SUMO vehicle in which the Claimant was travelling, as it is lighter one, had rightly fixed negligence on both the vehicles. Therefore, the Judgment and Decree passed by the Motor Accident Claims Tribunal, Additional District and Sessions Judge, Ariyalur, fixing joint liability on the Appellant/Transport Corporation & 3rd Respondent/ Insurance company is perfectly right and the same needs to be confirmed.



7. Considering the fact that the Claimant has sustained injuries in the accident which is evident from Ex.P3-eye hospital certificate, Ex.P4- Discharge summary, Ex-P6-Electro cardiogram report and on finding that the Claimant has taken treatment in the year of 2017-18, but the accident had occurred in the year of 2013, nearly after five years, the Tribunal has not considered the fact that the eye defects of the Claimant has occurred only on account of the accident. Therefore the Claims Tribunal has rightly awarded the overall compensation of the Claimant at Rs.30,000/- which this Court feels meagre and the same need not be interfered with.

8. On Scrutinizing the nature of injuries sustained by the First Respondent/Claimant, the quantum of compensation awarded by the Tribunal to the Respondent/Claimant at Rs.30,000/-, cannot be considered to be excessive, as alleged by the Appellant/ Transport Corporation. For the foregoing reasons, this Court does not find any merit in this Appeal and accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

9. The Appellant/Transport Corporation and the Insurance company/third respondent are directed to deposit 50% each of the compensation amount awarded by the Tribunal together with interest at 7.5% per annum from the date of the Claim Petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P.No.53 of 2018 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Judge, Ariyalur within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the First Respondent/Claimant through RTGS, within a period of two weeks.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

(arr)/(shk)

To:

1.The Motor accident Claims Tribunal,
Additional District and sessions Judge
Ariyalur.



2.The Section Officer,
V.R. Section,
High Court of Madras,
Chennai 600 104.

WEB COPY

+1cc to Mr.D.Venkatachalam, Advocate SR.No.41881

+1cc to Mr.R.Jayaprakash, Advocate SR.No.41794

C.M.A. No.1523 of 2021

JP-II (CO)
CB (09/12/2021)