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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.M.A. No.3593 & 3594 of 2012
AND M.P.Nos. 1& 1 of 2012 and 2 & 2 of 2012

The Managing Director,
Karnataka State Road Transport Corporation
Bangalore,
Karnataka State ..Appellant in both CMAs/Respondent

Vs.

1. M.Sumathi ..Respondent in CMA.No.3593 of 2012/Petitioner

2. Sundaramal ..Respondent in CMA.No.3594 of 2012/Petitioner

Common Prayer: These Civil Miscellaneous Appeals arefiled under Section 173 of Motor Vehicles Act, 1988, against the common judgment and decree dated 01.12.2005, made in MACTOP.Nos. 279 of 2004 and 280 of 2004, on the file of the Additional Special Judge, Krishnagiri.

For Appellant : M/s. T.Thiyagarajan
in both CMAs

For Respondent
in CMA.3593/2012: Mr.M.Sivakumar

For Respondent
in CMA.3594/2012: No Appearance

COMMON JUDGMENT

The matter is heard through "Video Conferencing".

The appellant/Trasnsport Corporation has filed these appeals against the common award passed by the tribunal in MCOP.Nos. 279 of 2004 and 280 of 2004 dated 09.07.2004 on the file of the Additional Special Judge, Krishnagiri.

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Brief facts of the case :

2. On 13.10.2003 the claimants have boarded into the KSRTC bus at Kalasipalayam to go to Chandapura, at about 2.45 pm, when the bus was going towards Housr NH7 Main Road, near Agraharam, a lorry which was coming behind the KRSTC bus and tried to overtake the bus by giving necessary signal. But the driver of the KRSTC bus without observing any rules, drove the bus in a rash and negligent manner and hit left side of the said lorry and then hit rear side of the on going ITI company bus. Due to the impact, the claimants and others, who were traveled in the KSRTC bus sustained severe injuries. The accident had occurred only due to rash and negligence driving on the part of the driver of the KSRTC bus. Hence the claimants claimed Rs.1,00,000/- each as compensation before the tribunal.

3. Before the Tribunal, the respondents/claimant examined themselves as P.W.1 & PW2 and the doctor was examined as PW3 and marked documents as ExP1 to P7. No witnesses and documents were marked by the appellant.

4.The Tribunal after considering the pleadings, oral and documentary evidence, fixed liability on the driver of KSRTC burs and awarded compensation of Rs. 49,500/- to the claimant in MCOP.No.279 OF 2004 and a sum of Rs. 67,500/- to the claimant in MCOP.No. 280 of 2014 together with interest at 7.5% per annum payable by the Appellant Transport Corporation.

5.Challenging the liability fastened on them, the appellant - Transport Corporation has come out with the present appeal.

6. The learned counsel for the appellant submitted that the respondents/claimants have obtained compensation by fraud and no such accident had happened as narrated by the claimants. The entire claim made by the claimants was based on the false documents and they have not filed any documents to prove that they have travelled in the appeallant transport corporation bus on the date of accident.

7. The learned counsel for the appellant further submitted that they have filed a miscellaneous petition before this Court in CMP.No.3 of 2012 to permit the appellant to file xerox copis additional documents namely (1). Form TR-18 dated 15.11.2003, (2). Statement given by the conductor Puspavathi, dated 28.10.2003, (3). Report given by the reported dated 12.11.2003 and (4). Statement given by the driver dated 17.11.2003. The learned counsel for the appellant has also produced a letter dated 13.11.2006 issued by the Venkateshwara Health Centre, Bangalore, wherein it has been stated that the claimants were not given treatment in the said hospital and there was no entry

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in MLC register as on 13.10.2003. These documents are filed along with this appeal and they were not able to produce the said documents before the tribunal, hence the award passed by the tribunal is liable to be setaside.

8. On the other hand, the learned counsel appearing for the respondent/claimant would submit that the tribunal has rightly passed the award by considering the oral and documentary evidence. Further, if the said documents are really necessary, they should have file the same before the tribunal before passing the award, without doing so, the appellant corporation has now filed some documents alleging the claim made by the claimant as fraud. The said contention cannot be accepted and the appeal is liable to be dismissed.

9. Though the tribunal has awarded compensation to the claimants by relying upon the documents and assesing the percentage of disability, in view of filing additional documents before this Court by the appellant transport corporation alleging that the respondent/claimant has made false claim, this Court straight away cannot consider the same in the appeal and give findings. Therefore, this Court is of the view that an opportunity shall be given to the appellant to prove their case before the tribunal by marking these documents.

10. In the result, these Civil Miscellaneous Appeals are allowed. The common award passed by the tribunal in MCOP.No.279 of 2004 & 280 of 2004 dated 01.12.2005 is set aside. The tribunal is directed to consider afresh the claim made by the claimants by marking the documents relied upon the appellant corporation after giving due opportunities to the claimants to prove the genuiness of the said documents. No costs. Consequently, connected Miscellaneous Petition is closed

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Special Judge,
   Krishnagiri.

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

+2cc to Mr.T.Thiyagarajan, Advocate, S.R.No.1452/2021, 1453/2021
+1cc to Mr.C.Prabakaran, Advocate, S.R.No.1206/2021

C.M.A. No.3593 & 3594 of 2012
AND
M.P.Nos. 1& 1 of 2012
and 2 & 2 of 2012

SR-I(CO)
RGA(06/09/2021)

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