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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2021

CORAM:

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

CMA NO.881 OF 2016

AND

CMP NO.7054 OF 2016

The Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited
Trichy.

...Appellant/Respondent

versus

Ravikumar

...Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 04.04.2014 made in M.C.O.P. No.256 of 2005 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Tiruvannamalai.

For Appellant : Mr.Ramanathan
for Mr.D.Venkatachalam

For Respondent : Ms.A.Subadra
for Ms.M.Malar

JUDGMENT

(Heard Video Conference)

This appeal has been filed by the Transport Corporation challenging the award dated 04.04.2014 passed by the Motor Accident Claims Tribunal, Principal District Judge, Tiruvannamalai in MCOP No.256 of 2005.

2. The appellant / Transport Corporation has filed this appeal challenging the impugned award on the ground that their



bus was not involved in the alleged accident as the permit for the alleged bus was only given for the route Titagudi - Ariyalur, whereas the alleged accident is said to have been taken place at Tiruvannamalai.

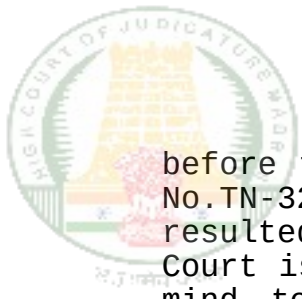
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3. Heard Mr.Ramanathan, learned counsel for the appellant / Transport Corporation and Ms.A. Subadra, learned counsel for the respondent / claimant.

4. Before the Tribunal, the appellant / Transport Corporation has filed the trip sheet dated 31.08.2003 which was marked as Ex.R1.

5. As seen from the trip sheet, on the date of the accident, the bus was plying in the route Titagudi-Ariyalur and therefore, it is not possible for the bus to have been at Tiruvannamalai, where the alleged accident is said to have taken place, for which, a claim has been made by the respondent against the appellant /Transport Corporation for the injuries sustained by him. The appellant / Transport Corporation has also filed Ex.R2, dated 31.03.2003 which is the permit for the bus bearing Registration No.TN-32-N-0949, which the respondent / claimant alleges that it was involved in the accident which resulted him in sustaining injuries. This Court has perused and examined the permit Ex.R2.

6. As seen from the permit (Ex.R2), it was given only for the route Titagudi - Ariyalur, whereas the alleged accident is said to have been taken place at Tiruvannamalai, which will not fall under the said route. As seen from the aforementioned documents, Exs.R1 and R2, it is very clear that on the date of the alleged accident, the bus bearing Registration No.TN-32-N-0949, was never at Tiruvannamalai and does not have the permit to ply at Tiruvannamalai and the trip sheet which was marked as Ex.R1 also discloses that it was plying only in the route Titagudi- Ariyalur on the date of the accident. The Tribunal has erroneously by total non application of mind to Exs.R1 and R2, viz., the trip sheet and the permit has mulcted the liability on the appellant / Transport Corporation despite the fact that the bus bearing No.TN-32-N-0949, was not involved in the accident, which resulted in the respondent / claimant sustaining injuries. The Tribunal has rejected the contentions of the appellant / Transport Corporation only on the ground that the Driver of the bus was not examined as a witness before the Tribunal. However, when Exs.R1 and R2 makes it clear that the bus was never present at the scene of the accident nor was plying in the route passing through Tiruvannamalai, where the accident is alleged to have taken place, the Tribunal ought not to have mulcted the liability on the appellant / Transport Corporation. Clinching evidence has been placed by the appellant / Transport Corporation in the form of Exs.R1 and R2



before the Tribunal to prove that their bus bearing Registration No.TN-32-N-0949, was not involved in the alleged accident which resulted in the respondent sustaining injuries and hence this Court is of the considered view that by total non application of mind to the materials and evidence available on record, the impugned award has been passed as against the appellant / Transport Corporation.

7. For the foregoing reasons, the impugned award dated 04.04.2014 passed by the Principal District Judge, Motor Accident Claims Tribunal, Tiruvannamalai in MCOP No.256 of 2005 is set aside and the Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar

vsi2

To

1. The Principal Subordinate Judge
Motor Accident Claims Tribunal,
Tiruvannamalai.
2. The Section Officer,
V.R. Section
High Court of Madras, Chennai - 104.

+1cc to Ms.M.Malar, Advocate, S.R.No.34259

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.34241

CMA No.881 of 2016

AK-II(CO)
RLP(29/09/2021)