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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2829 of 2019

and

C.M.P.No.14724 of 2019

The Managing Director

Tamil Nadu State Transport Corporation Ltd.

Coimbatore.

... Appellant/Respondent

Vs.

S.Ramesh

... Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 04.12.2018 made in M.C.O.P.No.629 of 2015 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Tiruppur.

For Appellant : Mr.K.J.Sivakumar

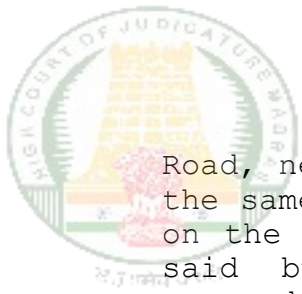
J U D G M E N T

This matter is heard through "Video-Conferencing".

This Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation against the award dated 04.12.2018 made in M.C.O.P.No.629 of 2015 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Tiruppur.

2.The appellant/Transport Corporation is respondent in M.C.O.P.No.629 of 2015 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Tiruppur. The respondent filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 21.03.2015.

3. According to the respondent, on the date of accident i.e., on 21.03.2015 at about 5.00 hours, while he was travelling as a passenger in the bus belonging to the appellant/Transport Corporation from Dharapuram to Tiruppur



Road, near Chettipalayam colony, the driver of the bus drove the same in a rash and negligent manner and all of a sudden, hit on the back side of the lorry, which was going in front of the said bus and caused the accident. In the accident, the respondent sustained multiple injuries all over the body and therefore, filed the claim petition claiming compensation against the appellant.

4.The appellant filed counter statement denying the averments made by the respondent and contended that the driver of the bus is not responsible for the accident. A lorry which was loaded with fire wood pieces was going ahead of the bus belonging to the appellant/Transport Corporation and the driver of the said lorry was driving the same in a rash and negligent manner. The driver of the bus, who was coming behind the lorry on noticing that one of the thread knots used to tie the firewood pieces got released off, turned the bus to right side to avoid the accident and at that time, suddenly the driver of the lorry stopped the lorry without any signal and rear side of the lorry dashed against the front side of the bus. At that time, the respondent did not hold the iron bar of the bus and sustained injuries. Therefore, the accident has occurred only due to rash and negligent driving by the driver of the lorry and carelessness of the respondent. Mere filing of F.I.R. against the driver of the bus is not a substantial piece of evidence to come to a conclusion that the accident was caused due to negligence on the part of the driver of the bus belonging to the appellant. Therefore, the appellant is not liable to pay any compensation to the respondent. The appellant has also denied the age, avocation and income of the respondent. In any event, the total compensation claimed by the respondent is excessive and prayed for dismissal of the claim petition.

5.Before the Tribunal, the respondent examined himself as P.W.1, one Thangamuthu, was examined as P.W.2 and five documents were marked as Exs.P1 to P5. The appellant/Transport Corporation examined one Ravichandran, the driver of the bus as R.W.1, but did not let in any documentary evidence.

6.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation and directed the appellant/Transport Corporation to pay a sum of Rs.1,02,100/- as compensation to the respondent.

7.Against the said award dated 04.12.2018 made in M.C.O.P.No.629 of 2015, the appellant/Transport Corporation has come out with the present appeal.



8.The learned counsel appearing for the appellant/Transport Corporation contended that the Tribunal failed to note that the evidence of the respondent as P.W.1 has not been corroborated by any other independent witness. Mere registering of F.I.R. against the driver of the bus cannot be a ground for fixing negligence on him. The Tribunal ought to have considered the evidence of R.W.1, who is the driver of the bus, a competent person to speak about the manner of accident. The learned counsel further contended that the Tribunal failed to note that no valid document was filed by the respondent to prove his age and income. The amounts awarded by the Tribunal towards extra nourishment, pain and suffering and mental agony are excessive and prayed for setting aside the award of the Tribunal.

9.Heard the learned counsel appearing for the appellant/Transport Corporation and perused the entire materials available on record.

10.From the materials on record, it is seen that it is the contention of the respondent that while he was travelling as a passenger in the bus belonging to the appellant/Transport Corporation, the driver of the bus drove the same in a rash and negligent manner and all of a sudden, hit on the back side of the lorry, which was going in front of the said bus and caused the accident. In the accident, the respondent sustained injuries. To substantiate this contention, the respondent examined himself as P.W.1 and deposed as per the averments made in the claim petition and marked F.I.R., which was registered against the driver of the bus as Ex.P1. On the other hand, it is the contention of the appellant that the accident has occurred only due to negligence on the part of the driver of the lorry, who was going in front of the bus and carelessness of the respondent, who did not hold the iron bar of the bus at the time of accident. To substantiate this contention, the appellant examined the driver of the bus as R.W.1, who deposed as per the averments in counter statement. The appellant has not let in any independent evidence to prove their contention. The driver of the bus has also not filed any objection to the contents of F.I.R. and has not lodged any complaint against the driver of the lorry. The Tribunal considering the evidence of P.W.1, Ex.P1/F.I.R. and in the absence of any independent witness on the part of the appellant, held that the driver of the bus belonging to the appellant/Transport Corporation was responsible for the accident and directed the appellant to pay compensation to the respondent. There is no error in the said finding of the Tribunal warranting interference by this Court.



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11.As far as quantum of compensation is concerned, the Tribunal considering the age of the respondent, avocation and nature of injuries, awarded compensation under different heads, which are not excessive warranting interference by this Court.

12.In the result, this Civil Miscellaneous Appeal is dismissed and the sum of Rs.1,02,100/- awarded by the Tribunal as compensation to the respondent along with interest and costs is confirmed. The appellant/Transport Corporation is directed to deposit the entire amount awarded by the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent is permitted to withdraw the entire amount awarded by the Tribunal along with interest and costs, less the amount if any, already withdrawn. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kj
To

The Chief Judicial Magistrate,
(Motor Accident Claims Tribunal),
Tiruppur.

Copy to

The Section Officer,
VR Section,
High Court,
Chennai.

+1cc to Mr.K.J.Sivakumar, Advocate Sr.1573

C.M.A.No.2829 of 2019
and
C.M.P.No.14724 of 2019

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srg 31/08/2021