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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2021

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.1554 of 2017

Jayaprakash

...Appellant

Vs

Tamil Nadu State Transport Corporation,  
Kumbokanam,  
Rep. by its Managing Director.

...Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.05.2012 made in M.C.O.P.No.15 of 2012 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Nagapattinam.

For Appellant

: No Appearance

For Respondents

: Mr.V.S.Vijay Veliappan

#### J U D G M E N T

The appeal is filed by the claimant aggrieved by the dismissal of the claim petition by the Motor Accident Claims Tribunal at Nagapattinam.

2.The brief facts of the case is that on 14.03.2011 at about 01.30p.m., when the claimant about to board the passenger bus bearing Registration No.TN49 1628 to Killukudi from Thevoor, the bus driver negligently moved the bus, the claimant fell down from the bus and got injured. Alleging that the accident occurred due to the negligence of the bus driver and in the accident, his right leg got amputated, a compensation for Rs.5,00,000/- sought against the Transport Corporation.

3.The Transport Corporation filed counter stating that the claimant got injured, when he tried to board the moving bus. The accident occurred due to the negligence of the claimant. Therefore, the Transport Corporation is not responsible to pay any compensation.



4. Before the Tribunal, the claimant and the doctor, who gave the disability certificate were examined as P.W.1 and P.W.2. 11 exhibits were marked.

5. The Tribunal after considering the evidence particularly the evidence of the claimant, concluded that the accident did not occur due to the rashness or negligence of the bus driver. In the F.I.R., the cousin of the claimant had informed the police that the Nagapattinam to Thiruthuraipoondi bus bearing Registration No. TN 49 1628 halted at Bharathi Nagar bus stop and moved after boarding of all the passengers. The informant ran and boarded the moving bus from the rear steps. The claimant who tried to board the moving bus from the front steps fell down and sustained injuries when the left side rear tyre of the bus ran over the right leg of the claimant. P.W.1 had admitted in his cross examination that he fell down from the moving bus when he tried to board the moving bus from the front entrance and also admitted that he is the cause for the accident. Since the evidence of the claimant clearly indicates that there is no fault on the part of the bus driver, the Tribunal has rightly dismissed the claim petition.

6. In the appeal, the said award is challenged on the ground that the driver ought to have watched the rear view mirror and should have stopped the bus as soon as the claimant fell down. If he had halted the bus, the accident would have been averted. The said contention though sounds very impressive, it is highly impossible for any driver to expect passengers trying to board the moving bus. The reason given by the Tribunal for dismissing the claim petition is supported by evidence and own admission of the claimant. Hence, there is no ground to interfere the finding of the Tribunal. Hence, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-  
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

vri

To

Motor Accidents Claims Tribunal,  
Chief Judicial Magistrate,  
Nagapattinam.



Copy to

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

+1cc to M/s.V.S.Vijay Veliappan, Advocate Sr.11495

CMA NO.1554 OF 2017

vsn II[co]  
srg 02/09/2021