



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2021

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.583 of 2017

Sri.Kavitha Travels,
Rep. by its Prop.L.Anandan,
H.O.2412, Rangaiah Chetty Street,
Madras-112.

... Appellant/Petitioner

Vs

Tamilnadu State Government Transport Corporation,
Rep. by its Managing Director,
Vellore-9.

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 26.04.2001 made in M.C.O.P.No.2109 of 1997 on the file of the Motor Accidents Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : No Appearance

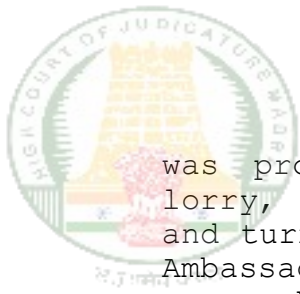
For Respondents : Mr.CSK.Sathish

J U D G M E N T

The appeal is filed by the owner of the vehicle being aggrieved by the dismissal of his claim petition filed against the Transport Corporation.

2. The case of the appellant is that on 28.11.1996, while parking his Ambassador Car bearing Registration No.TCW 8305 near Baluchetty Chatram, Kilambi Kottu Road, a transport Corporation bus bearing Registration No.TN 23 0915 dashed against the parked car due to rash and negligent driving of the driver. In the said accident, his car got totally damaged. The claimant being dependent on the income derived from the said car used as tourist vehicle, lost his income and also income for four months. Also it took Rs.61,262/- to repair the vehicle besides Rs.34,300/- for spare parts.

3. The claim petition for Rs.2,00,000/- was opposed by the Transport Corporation on the ground that to avert a lorry which



was proceeding on the wrong side while overtaking a tanker lorry, the driver of the passenger bus tried to avert collision and turned the vehicle to the left. At that time, bumper of the Ambassador car stationed got damaged. The accident did not occur due to the negligence of the corporation bus driver but due to the rash and negligent driving of the lorry proceeding towards the bus.

4. Before the Tribunal, the claimant examined as P.W.1 and marked seven exhibits. The conductor of the passenger bus was examined as R.W.1.

5. Out of 7 exhibits marked and relied by the claimant, the photographs of the vehicle marked as Ex.P7 and F.I.R. Ex.P1 were considered by the Tribunal and held that the accident occurred due to the negligence of the Transport bus driver and in the said accident, the vehicle Ambassador car of the claimant got badly damaged. Further, the Tribunal relied upon M.V. Inspector Report to conclude that the vehicle was so extensively damaged, therefore, not fit for moving. However, since the claimant has failed to produce the bills of Auto Workshop and spare parts and in the absence of evidence that due to the damage, he lost earning for four months, the Tribunal dismissed the claim petition in toto. Hence, aggrieved by the dismissal, the present appeal is filed stating that the Tribunal failed to consider Exs.A1 to A7 properly. Having held that the accident has occurred due to the negligence of the transport bus driver and the Ambassador car of the claimant has got extensively damaged, the Tribunal ought to have given reasonable compensation, de hors of the fact that no bill for repair and spare parts produced.

6. There is no representation for the appellant.

7. Learned counsel for the Transport Corporation would submit that the accident took place in the year 1996. The Ambassador car is of the model 1980. Since there is no valuation certificate produced by the claimant, the Tribunal has rightly dismissed the claim petition pointing out the fact that the claimant has not filed any bills for repair, for spare parts or the valuation of the vehicle before the accident and after the accident. Learned counsel for the respondent also submitted that the claimant pending the claim petition has sold away the vehicle and no evidence to show that he has incurred any loss in the said transaction.

8. Though there is no representation for the appellant, inspite of adjourning the matter on several occasions, this Court on perusing the records finds that the Tribunal has miserably failed to award a fair compensation on the sole ground



that the claimant has failed to produce expense bill. The photograph marked as Ex.P7 series clearly shows that the ambassador car of the claimant has crushed both on front and rear. The mangled remains of the car could be seen through photographs. The accident has occurred due to the negligence of the bus driver. From the R.C. Book marked as Ex.P3, it appears that the claimant has purchased the ambassador car model 1980 in the year 1996 with transport permit endorsement. Admittedly, after the accident, he has sold away the car.

9. Taking into consideration the model, age of the car and the nature of damage caused to the vehicle as shown from the photograph Ex.P7, this Court fix a lumpsum compensation of Rs.25,000/- payable to the claimant with 7.5% from the date of petition till the date of deposit. The said amount shall be deposited by the Transport Corporation within a period of twelve weeks from the date of receipt of copy of this judgment. On such deposit, the claimant is permitted to withdraw the same on appropriate application.

10. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No order as to costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vri

To

Motor Accidents Claims Tribunal
II Small Causes Court,
Chennai.

Copy to :

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

CMA NO.583 OF 2017

AD(CO)
HS(16/09/2021)