



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2021

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.1256 of 2011

and

M.P. (MD)No.4 of 2011

Tamil Nadu State Transport Corporation,
Through its Managing Director,
Division-2,
Virudhunagar.

.. Appellant/Respondent

vs.

Ramar @ Ramar Kudumban

.. Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, to set aside the award passed in M.C.O.P.No.21 of 2006, dated 31.01.2008 on the file of the Motor Accident Claims Tribunal-cum-Sub Court, Sankarankovil and allow this appeal.

For Appellant : Mr.K.Srinivasan

For Respondent : No appearance

J U D G M E N T

This appeal is directed against the judgment and award passed by the Motor Accident Claims Tribunal-cum-Sub Court, Sankarankovil in M.C.O.P.No.21 of 2006, dated 31.01.2008.

2. The brief facts of the case are that a claim petition was filed by the respondent claiming compensation of Rs. 3,00,000/-. It is his case that on 02.12.2000 at 8.15 p.m., he along with his wife Lakshmi were returning from Sivagiri Bazaar in the Madurai road, after purchasing the articles. When they were proceeding near Sivagiri police check post, the bus owned by the appellant bearing Registration No.TN-67-N-0141 was driven by its driver in a rash and negligent manner and hit against him. In the accident, he sustained grievous injuries and there was a fracture on his left thigh. He was taken to Government Head Quarters Hospital, Tenkasi and from where, he was referred to Tirunelveli Medical College Hospital, where he underwent surgery. It is his further



case that, he was a coolie and he was earning Rs.3,000/- per month, because of the accident, he lost his job.

3. The appellant resisted the claim petition disputing the manner of accident. It is further stated that the driver of the bus drove it in a moderate speed, but the claimant had suddenly crossed the road, thereby, he invited the accident and hence, the Transport Corporation is not liable to pay compensation and the claim was excessive and exorbitant.

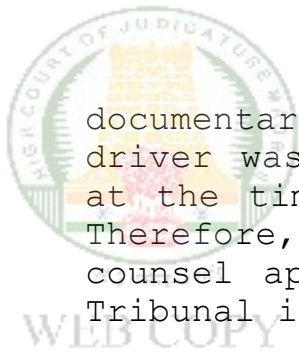
4. In order to prove the issue of negligence, the claimant himself gave evidence as P.W.1. Ex.P1-FIR, Ex.P2-Observation mahazar, Ex.P3-sketch, Ex.P4-Motor Vehicle Inspector Report, Ex.P5-Accident Register, Ex.P6-Charge-sheet, Ex.P7-Judgment of the Criminal Court, Ex.P8-X-ray and Ex.P9-Disability Certificate were produced. Ex.P7-Judgment of the Criminal Court shows that the criminal case was registered against the driver of the bus and he was also prosecuted before the Criminal Court.

5. Though the driver of the bus was acquitted by the Criminal Court, the Tribunal, relied upon the evidence of P.W.1 and the documents referred to above, to come to a conclusion that the driver of the bus was responsible for the accident. It is also relevant to note that on the side of the appellant, no evidence was let in to prove their defence. So the finding on negligence is hereby confirmed.

6. P.W.2-Doctor-Ravichandran in his evidence has stated that the claimant suffered fracture and there was a reduction in 6 c.m., in the left leg. In Ex.P5-Accident Register it is referred that he sustained grievous injuries. Though, Ex.P9-disability certificate shows that the claimant has suffered 65% permanent disability, the Tribunal has taken only 25% disability and by applying multiplier '13' awarded a sum of Rs.1,17,000/- for loss of income. Further, the Tribunal awarded a sum of Rs.10,000/- for pain and suffering, Rs.5,000/- for nutrition, Rs.3,000/- for transportation, Rs.250/- for damages to clothes and Rs.4,750/- for medical expenses. In total, the Tribunal has awarded a sum of Rs.1,40,000/-.

7. The learned counsel appearing for the appellant contended that the Tribunal, without considering Ex.P7-judgment of the Criminal Court, fixed the negligence upon the driver of the Transport Corporation. He further added that the acquittal of the driver in a criminal case would prove that he was not negligent at the time of accident.

8. This Court is not able to appreciate the contention of the learned counsel for the appellant for the reason the oral and



documentary evidence produced by the claimant proved that the driver was negligent. Further, the driver, who drove the vehicle at the time of accident, did not come forward to give evidence. Therefore, I find no merit in the contention of the learned counsel appearing for the appellant and hence, the award of the Tribunal is confirmed.

9. For the above said reasons, this Civil Miscellaneous Appeal fails and the same is dismissed. The appellant/Transport Corporation is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the respondent/claimant is permitted to withdraw the award amount by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

The Motor Accident Claims Tribunal-cum-Sub Judge,
Sankarankovil.

Copy to

The Record Keeper-2 copies
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

JUDGMENT MADE IN

C.M.A(MD) No.1256 of 2011

25.01.2021

KM (24.02.2021) 3P 4C

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