



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 07.01.2021

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD)No.252 of 2010

and

M.P(MD)No.1 of 2010

The Divisional Manager,
Tamil Nadu State Transport Corporation Ltd.,
Division - III,
Ranithottam,
Agasteeswaram Taluk,
Kanyakumari District,
Nagercoil.

.. Appellant/3rd Respondent

vs.

1.Salammal ..1st Respondent/Petitioner
2.Sugumaran
3.Vijayan ...Respondents 2&3/Respondents 1&2
(2nd & 3rd respondents given up since the
Driver & Conductor of the Appellant/
Transport Corporation)

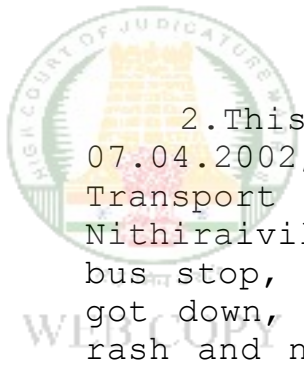
Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the judgment and award made in MCOP No.91 of 2003 dated 30.12.2005 on the file of the Motor Accident Claims Tribunal, Principal Motor Accident Claims Tribunal Court, Nagercoil.

For Appellant : Mr.K.Gokul

For Respondents : Mr.A.Balamohan (for R1)
R2 and R3 - given up

J U D G M E N T

The Transport Corporation has come up with this appeal challenging the judgment and award passed by the Motor Accident Claims Tribunal, Nagercoil, passed in MCOP No.91 of 2003 dated 30.12.2005.



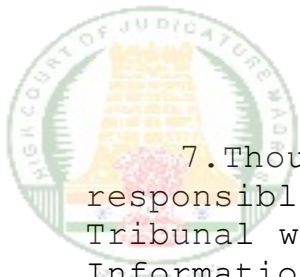
2.This a case of injury. According to the claimant, on 07.04.2002, she travelled in a bus belonging to the appellant Transport Corporation bearing registration No.TN-74-M-0289 from Nithiraivilai to Marthandam and when the bus stopped Gandhi ground bus stop, she was getting down from the bus, however, before she got down, the conductor whistled and the vehicle was moved in a rash and negligent manner and hence, she fell down and sustained grievous injuries on her head and other parts of her body. Immediately, she was taken to Manchu Hospital, where she took treatment as inpatient from 07.04.2002 to 12.04.2002 and thereafter, she took treatment at Susrushah Hospital at Nagercoil as inpatient from 27.04.2002 to 02.05.2002. According to her, a major operation was also conducted on her head. She sought compensation of Rs.1,00,000/-, but the Tribunal has awarded Rs.65,100/-.

3.The appellant herein resisted the claim petition contending that the claimant attempted to get down from the running bus, thereby, she sustained injuries and hence, they are not liable to pay any compensation to the claimant.

4.In order to prove the negligent, the claimant examined herself as P.W.1 and she has narrated the incident as stated in the claim petition. She has produced Ex.P.1, First Information Report, Ex.P.2 Accident Register and Ex.P.3 Motor Vehicles Inspector's Report, Ex.P.4 Rough Sketch and Ex.P.5 Observation Mahazar. Though the appellant examined the driver and conductor of the bus, the Tribunal choose to accept the evidence of the claimant and held that the driver of the bus was responsible for the accident.

5.P.W.1 has further deposed that in the accident, she suffered injury in the head and she took treatment at Manchu Hospital and Susrushah Hospital. Ex.P.2 is the accident register and Exs.P.6 to P.12 are the medical bills and case sheet. Based on the above evidence, the Tribunal has awarded Rs.5000/- towards loss of income; Rs.3,000/- towards loss of income; Rs.2,000/- towards transportation; Rs.3,000/- for extra nourishment; Rs.100/- for damage of articles; Rs.37,000/- towards medical expenses; Rs.5,000/- towards pain and suffering; and Rs.10,000/- towards loss of earning capacity In total, the Tribunal has awarded Rs.65,100/- along with interest at the rate of 12% per annum. Aggrieved over the Judgment and award, the present appeal has been filed.

6.Heard the learned counsel appearing on either side and perused the materials available on record.



7.Though the appellant has contended that the claimant is the responsible for the accident, a perusal of the Judgment of the Tribunal would show that the Tribunal, after considering the First Information Report (Ex.P.1), Accident Register (Ex.P.2), Motor Vehicles Inspector's Report (Ex.P.3), rough sketch (Ex.P.4) and observation Mahazer (Ex.P.5), held that the driver and conductor of the bus are the responsible for the accident. So, the finding of the Tribunal that the driver and conductor of the bus were responsible for the accident does not warrant any interference by this Court and hence, it is confirmed.

8.Though the learned counsel for the appellant/Transport Corporation has contended that the award is on the higher side and it requires reduction, this Court is of the view that the Tribunal has awarded a just and reasonable compensation. Hence, the appeal is liable to be dismissed.

9.In that view, the Civil Miscellaneous Appeal is dismissed, as devoid of merits. Since the appeal 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 order. On such deposit, the claimant is permitted to withdraw the award amount, less the amount already withdrawn, if any, together with proportionate interest and costs. No costs. Consequently, connected Miscellaneous Petitions is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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To

The Motor Accident Claims Tribunal,
Principal Motor Accident Claims Tribunal Court,
Nagercoil.



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

JUDGMENT MADE IN
C.M.A (MD) No.252 of 2010
and
M.P (MD) No.1 of 2010
07.01.2021

KM (17.03.2021) 4P 4C