



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated: 04.03.2021

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THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

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C.M.A(MD)No.1622 of 2013

and

MP(MD)No.2 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Periyamelguparai,
Trichy-1.

: Appellant/3rd Respondent

Vs.

1.R.Krishnamoorthy

: R1/Petitioner

2.R.Balaji

3.M/s.United India Insurance Company Limited,
K.P.S Arcade,
1st Floor, Cavary Nagar,
Kulithalai-639 104.

: R2 and R3/R1 and R2

PRAYER:- Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (Sub Court), Kulithalai, made in MCOP No.47 of 2008, dated, 18.07.2012.

For Appellant	: Mr.P.Prabhakaran
For 1 st Respondent	: Mr.N.Sudhagar Nagaraj
For 2 nd Respondent	: Dismissed, Vide Court order, dated 26.06.2018
For 3 rd Respondent	: No appearance

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the award passed by the Motor Accident Claims Tribunal (Sub Court), Kulithalai, made in MCOP No.47 of 2008, dated, 18.07.2012.

2.The short facts of the case is that on 07.09.2007 at about 5.30 am, when the claimant was travelling in the Bus TN-45-N-2163 in Trichy-Karur Road near Marudur Mariamman Kovil, the Lorry TN-09-B-3909 came in the opposite direction in a rash and negligent manner and both vehicles had dashed against each other. In the accident, the claimant, who was sitting in the second row in the Bus at the time of accident, sustained multiple injuries on his left hand, left clavicle and left ribs. A claim petition was filed by the claimant seeking compensation of Rs.5,00,000/- for the injuries sustained by him in the accident.



3.The claim was resisted by the appellant Transport Corporation and the United India Insurance Company contending that the claim made by the claimant was excessive and dispute the manner of accident and their liability to pay the compensation.

4.Before the tribunal, on the side of the claimant, 3 witnesses were examined and marked 4 documents. On the side of the respondents, 4 witnesses were examined and 8 documents were marked.

5.The Tribunal, on consideration of oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the Bus has caused the accident and awarded compensation of Rs.1,01,000/- together with interest @ 7.5% p.a., directing the respondents 1 and 3, being the owner of the Lorry and TNSTC Limited, Trichy, in the claim petition, are liable to pay jointly and severally and dismissed the claim petition as against the 2nd respondent Insurance Company therein. Aggrieved over the same, the appellant Transport Corporation is before this court.

6.Heard both sides and perused the materials available on record.

7.The learned counsel appearing for the appellant has mainly contended that without appreciating the law and facts and evidence, the tribunal had wrongly fastened the liability on the Appellant Transport Corporation. It is further submitted that the award of the tribunal is on the higher side. On the other hand, the learned counsel appearing for the 1st respondent argued the case in support of the findings of the tribunal.

8.In this case RW1 to RW3 have categorically stated that the Tipper Lorry was not at all insured with their branch office. On the side of the Insurance Company, Declaration Form (Ex.P8) from its Regional Office at Chennai, was produced to the effect that the alleged policy was not issued by any of their Company offices in Chennai Region. Based on the evidence, the the tribunal has rightly come to the conclusion that the 1st and 3rd respondents/owner of the Lorry and the Managing Director of TNSTC Limited, Trichy are jointly and severely liable to pay the compensation.

9.In sofar as the quantum is concerned, the evidence of PW2 and Ex.P3 Disability Certificate would show that the claimant had suffered 32% partial permanent disability. Based on the evidence, the Tribunal has awarded Rs.64,000/- towards partial permanent disability, by awarding Rs.2,000/- per percentage and also awarded Rs.15,000/- for pain and suffering, Rs.5,000/- towards extra nourishment; Rs.5,000/- towards transportation and Rs.12,000/- towards loss of income during treatment period. In total, the tribunal has awarded Rs.1,01,000/- together with interest @ 7.5% pa. In my considered view, the quantum awarded by the Tribunal is fair and reasonable and the same can be confirmed.



10. In such view of the matter, this court does not find any illegality or infirmity in the award passed by the Tribunal and accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CSIII)

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/ /2021

Sub Assistant Registrar (CS)

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To,

1. The Motor Accident Claims Tribunal/
Sub Court, Kulithalai.

Copy to

The Record Keeper, (2C)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s. P. PRABHAKARAN, Advocate (SR-8613[F] dated 04/03/2021)

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04.03.2021

KB (07.07.2021) 3P 5C