



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD)No.420 of 2019

and

C.M.P (MD)No.5041 of 2019

WEB COPY

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Kumbakonam Town,
Thanjavur District.

...Appellant/Respondent

Vs.

Jeyaraman

...Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award and decree made in M.C.O.P.No.506 of 2015, dated 18.02.2016 on the file of the Motor Accidents Claims Tribunal / Special Sub Court, Thanjavur.

For Appellant :Mr.P.Prabhakaran
For Respondent :No Appearance

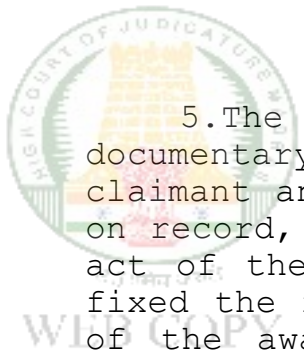
JUDGMENT

This Appellant/State Transport Corporation Limited has filed this Civil Miscellaneous Petition, to set aside the award and decree made in M.C.O.P.No.506 of 2015, dated 18.02.2016 on the file of the Motor Accidents Claims Tribunal / Special Sub Court, Thanjavur.

2.It is a case of accident, which took place on 15.04.2015, at about 8.30 a.m. the claimant drove the two wheeler bearing Registration No.TN-55-M-0540 loaded with Palakai gunny bags from Thanjavur -Pudukkottai Road. When the two wheeler came near Kantharvakottai Gandhi Statue, a bus bearing Registration No.TN-01-N-3980 came from opposite direction with rash and negligent manner and dashed against the motorcycle. Due to the said accident, the petitioner has sustained grievous injuries.

3.The claimant has filed a petition in M.C.O.P.No.506 of 2015 on the file of the Motor Accidents Claims Tribunal/Special Sub Court, Thanjavur, seeking compensation.

4.Before the Tribunal, on the side of the claimants, two witnesses were examined as P.Ws.1 & 2 and marked five documents as Exs.P.1 to P.5 and on the side of the respondent, one witness was examined as R.W.1 and no document was marked.



5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimant and the respondents and also on appreciating the evidences on record, held that the accident was occurred due to the negligent act of the driver of the bus as well as the injured/claimant and fixed the negligent at 90:10 and directed the appellant to pay 90% of the award amount. Aggrieved over the judgment passed by the Tribunal, the appellant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

6.Heard Mr.P.Prabhakaran, learned counsel appearing for the appellant. No representation for the respondent.

7.The learned counsel appearing for the appellant/Transport Corporation contended that without taking the factual aspects into consideration and without appreciating the law and facts and evidence, the Tribunal had wrongly fixed a part of responsibility for the accident on the driver of the appellant Transport Corporation and the compensation awarded by the Tribunal is excessive.

8.On perusal of records, it shows that as per the discussions in the judgment before the Tribunal, the two wheeler was proceeded from north to south and turned to west. But the driver of the two wheeler drove the vehicle on the left side of the road. The FIR was registered against the bus driver with 4 days delay, which was marked Ex.P1. There is no evidence on the appellant side that only the driver of the two wheeler is responsible for the accident. But the Tribunal held that with heavy load, the two wheeler turned to west, he may also cause for the accident. Hence, 10% liability fixed on the claimant, which is reasonable. There is no error in the said finding. As far as quantum of compensation is concerned, the amount awarded by the Tribunal is not excessive.

9.Considering all the materials on record in entirety, this court is of the view that there is no error to interfere with the award of the Tribunal.

10.In the result, this Civil Miscellaneous Appeal is dismissed by confirming the order and decree, dated 18.02.2016 passed in M.C.O.P.No.506 of 2015 on the file of the Motor Accidents Claims Tribunal / Special Sub Court, Thanjavur. No costs. Consequently, connected miscellaneous petition is closed.

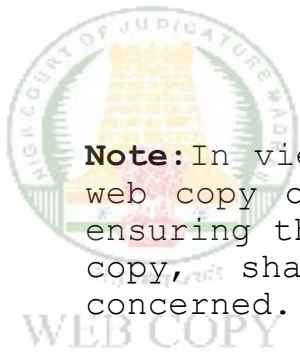
Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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

1.The Motor Accidents Claims Tribunal /
Special Sub Court,
Thanjavur.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-36902[F] dated 01/12/2021)
C.M.A.(MD)No.420 of 2019
and
C.M.P (MD)No.5041 of 2019
01.12.2021

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