



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.616 of 2015

and

MP(MD)No.1 of 2015

United India Insurance Company Limited,
through its Branch Manager,
Karaikudi.

: Appellant/2nd Respondent

Vs.

1.N.Vellai Ammal

: R1/Claimant

2.M/s.Sri Vairavan Roadways
Represented by its Proprietor,
Having its Office at 89,
South Avani Moola Street,
Madurai.

: R2/1st Respondent

3.Tamil Nadu State Transport Corporation Ltd.,
Represented through its Managing Director,
Madurai Division-I,
Bye-Pass Road,
Madurai.

: 3rd Respondent/R3

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the award, dated 09.11.2004 made in MCOP No.662 of 1999 on the file of Motor Accident Claims Tribunal (Additional District and Sessions Judge/Fast Track Court No.II), Madurai.

For Appellant : Mr.P.Jaganathan

For 1st Respondent : No appearance

For 2nd Respondent : Dismissed, vide order,
Dated 27.06.2018

For 3rd Respondent: Mr.P.Prabhakaran



JUDGMENT

Challenge made in this appeal is to the award, dated 09.11.2004 made in MCOP No.662 of 1999 on the file of Motor Accident Claims Tribunal (Additional District and Sessions Judge/Fast Track Court No.II), Madurai.

2.The brief facts of the case are that on 02.11.1998 at about 9.40 am on Madurai-Melur Road in front of TVS Berg Company, the claimant was travelling from Kalla to Madurai in Vairavan Passenger Bus TN-59-8889 and at that time, the Transport Corporation Bus TN-59-N-0737 was coming from Madurai to Melur. At that time, the driver of the Vairavan Passenger Bus came in a rash and negligent manner and dashed against the Transport Corporation bus. Due to the accident, seventy passengers sustained multiple injuries including the claimant herein. The claimant was admitted in the Government Rajaji Hospital, Madurai and she was treated as inpatient from 02.11.1998 to 16.11.1998. The claimant, sought compensation of Rs.2,00,000/- for the injuries sustained in the accident.

3.The claim was opposed by the Appellant Insurance Company as well as the Transport Corporation disputing the manner of accident and their liability to pay compensation.

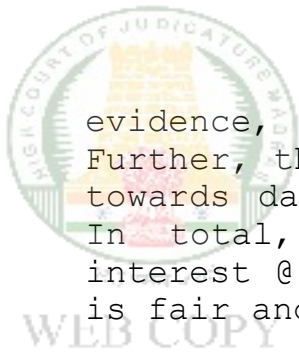
4.The Tribunal, upon consideration of oral and documentary evidence, came to the conclusion that the driver of the Vairavan Passenger Bus was responsible for the accident and awarded compensation of Rs.46,500/- together with interest @ 9% p.a and dismissed the claim petition in respect of the 3rd respondent Transport Corporation.

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

6.The appellant restricts its challenge only to quantum and the finding of the Tribunal in other respects is accepted by the appellant. On the other hand, the learned counsel for the 3rd respondent submitted that the findings of the tribunal is based on the evidence and hence, it has to be confirmed.

7.PW11 is the injured as well as the one of the eye witnesses to the accident. A criminal case was registered against the drivers of both the vehicles. Ex.P1 FIR stands registered based on the complaint given by PW1. PW11 has given evidence stating that she sustained multiple fracture in the alleged accident. Ex.P52 is the disability. Ex.P54 is the X-ray.

8.It is seen that PW12/Dr.Shanmugam has deposed that the claimant had sustained 40% partial permanent disability and he issued the disability certificate for the same. Based on the



evidence, the tribunal has awarded Rs.40,000/- for disability. Further, the tribunal awarded Rs.1,200/- towards nutrition; Rs.300/- towards damages to clothes; Rs.5,000/- towards pain and suffering. In total, the tribunal has awarded **Rs.46,500/-** together with interest @ 9.% p.a. In the considered view of this court, the award is fair and reasonable and therefore, it is confirmed.

9.In fine, the Civil Miscellaneous Appeal is dismissed and the award of the Tribunal is confirmed. The appellant Insurance Company is directed to deposit the entire amount with accrued interest and costs within a period of eight weeks from the date of receipt of a copy of this order, if not deposited already. On such deposit, the claimant is permitted to withdraw the entire amount without filing any formal application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To,

1.The Motor Accident Claims Tribunal/
Additional District and Sessions Court,
Fast Track Court No.2, Madurai.

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

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-5296[F] dated 16/02/2021)

Judgment made in
CMA (MD) No.616 of 2015
16.02.2021

KG (CO)
TR(09.06.2021) 3P 5C