



WEB COPY

C.M.A.(MD)No.672 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A.(MD)No.672 of 2017

and

C.M.P(MD)No.6982 of 2017

The General Manager,
Tamil Nadu State Transport Corporation
(Coimbatore) Limited,
No.37, Mettupalayam Road,
Erode.

...Appellant/Respondent

Vs.

Ismayil

...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.968 of 2015, dated 26.09.2016 on the file of the Motor Accidents Claims Tribunal / Special Sub Court, Tiruchirappali.

For Appellant	:Mr.P.Prabhakaran
For Respondent	:Mr.S.J.Sasidharan Tamilkani

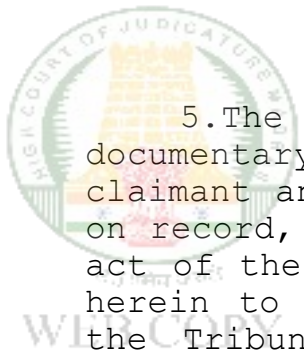
JUDGMENT

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.968 of 2015, dated 26.09.2016 on the file of the Motor Accidents Claims Tribunal / Special Sub Court, Tiruchirappali.

2.It is a case of accident, which took place on 16.04.2015, at about 4.00 p.m., when the claimant drove the two wheeler bearing Registration No.TN-45-BB-8821 on Trichy - Karur Bye pass road near Check Post, a bus bearing Registration No.TN-33-N-2484 was driven by its driver from same direction with rash and negligent manner and dashed against the two wheeler. Due to the said accident, the petitioner has sustained grievous injuries and admitted in the Government Hospital, Trichy.

3.The claimant has filed a petition in M.C.O.P.No.968 of 2015 on the file of the Motor Accidents Claims Tribunal/Special Sub Court, Tiruchirappalli, seeking compensation.

4.Before the Tribunal, on the side of the claimants, two witnesses were examined as P.Ws.1 & 2 and marked four documents as Exs.P.1 to P.4. 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 respondent bus and directed the appellant herein to pay compensation. 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 and Mr.S.J.Sasidharan Tamilkani, learned counsel appearing for the respondent and perused the materials available on record.

7.The learned counsel appearing for the appellant/Transport Corporation contended that without taking the factual aspects and without appreciating the law and facts and evidence, the Tribunal had wrongly fixed the entire responsibility for the accident on the part of the driver of the appellant/Transport Corporation.

8.On perusal of records, it shows that there is no evidence to show that due to the rash and negligent driving of the two wheeler, the accident was occurred. The F.I.R. was registered against the driver of the bus and marked as Ex.P1. The claimant himself examined as PW1 and as per evidence, the appellant's bus driver only was responsible for the accident. So in all aspect, the Tribunal has rightly fixed the negligent on the driver of the appellant's bus.

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 26.09.2016 passed in M.C.O.P.No.968 of 2015 on the file of the Motor Accidents Claims Tribunal / Special Sub Court, Tiruchirappalli. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

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



To

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

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

+1 CC to M/s.P.PRABHAKARAN, Advocate(SR-38221[F] dated 10/12/2021)

+1 CC to M/s.S.T.SASIDHARAN TAMILKANI, Advocate (SR-38203[F] dated
10/12/2021)

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MGJ(11.01.2022) 3P 6C