



C.M.A(MD)No.227 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 04.11.2022

Pronounced on : 23.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE **R.THARANI**

C.M.A(MD)No.227 of 2013

Vairavan

...Appellant / Claimant

Vs

1.Muthusamy

2.The Managing Director,
M/s. Tamil Nadu State Corporation
(Madurai Divison) Ltd.,
Madurai.

... Respondents / Respondents

PRAYER :-

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to set aside the award passed in M.C.O.P.No.334 of 2009 dated 25.03.2011 on the file of the Motor Accident Claims Tribunal / Principal Sub Court, Tenkasi, Tirunelveli District, by allowing this Civil Miscellaneous Appeal.

For Appellant : Mr.M.Saravanan

For R1 & R2 : No appearance



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JUDGMENT

This Civil Miscellaneous Appeal is filed against the order in M.C.O.P.No.334 of 2009 on the file of the Motor Accident Claims Tribunal / Principal Sub Court, Tenkasi, Tirunelveli District. The appellant is the claimant. Respondents are the respondents in the claim petition.

2.Brief substance of the claim petition is as follows:

On 27.03.2009 at about 7 p.m., when the petitioner was boarding the bus bearing registration number TN 67 N 0459, the driver of the bus started the bus in a rash and negligent manner and the petitioner fell down and sustained injuries. The petitioner claims a sum of Rs.50,000/- as compensation.

3.Brief substance of the counter filed by the second respondent is as follows:

The petitioner get into the bus in a negligent manner and he fell down out of his own negligence. The first respondent is not liable to pay compensation. The injuries are simple in nature.



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4. One witness was examined and five documents were marked on the side of the petitioner. No witness was examined and no document was marked on the side of the respondent. The trial Court dismissed the claim petition.

5. Against the same, the appellant preferred this appeal on the following grounds:

The Tribunal is wrong in coming to the conclusion that only due to the impact of alcohol, the petitioner has slipped and fell down from the bus. The Tribunal failed to note that there is no bar for a drunken person to travel in a transport vehicle. The Tribunal ought to have fixed the liability atleast at 80 : 20. The non examination of the conductor is fatal to the respondent. The Doctor was not examined to prove that the petitioner was under the influence of alcohol at the time of accident.

6. On the side of the appellant, it is further stated that the appellant sustained head injury. Even before the conductor gave a whistle, the driver of the vehicle moved the vehicle and that was the reason for the accident. The



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appellant was admitted as inpatient for five times. The respondent has not examined any witness to prove that it was the appellant, who fell down on his own fault. The Doctor was not examined to prove that the appellant was under the influence of alcohol and pray the appeal to be allowed.

6.The complaint for lodging the FIR was given by the driver of the bus. In the FIR, it is stated that the appellant fell down from the bus due to his own fault. On the same day, the appellant was treated by the Doctor in the Kadayanallur Government Hospital. The Doctor has mentioned that the appellant was in a toxic state of mind and there was smell of liquor coming from the appellant. The appellant sustained two simple injuries.

7.It is the duty of the appellant to prove that the occurrence has taken place due to the rash and negligent driving of the driver of the bus. The appellant has marked a copy of the FIR. The contents of the FIR is not in favour of the appellant. The appellant has not chosen to examine any other witness to prove his case. This accident has taken place at the time of boarding into a bus. Hence, it is decided that the appellant has failed to prove that the accident has taken place due to the rash and negligent driving of the



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bus driver. Therefore, it is decided that there is nothing sufficient to interfere with the order of the Tribunal.

8.Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs.

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Index: Yes / No

Internet : Yes / No

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To

- 1.The Motor Accident Claims Tribunal / Principal Sub Court, Tenkasi,
Tirunelveli District.
- 2.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.

R. THARANI, J



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