



C.M.A. No. 1278 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

C.M.A. No. 1278 of 2021

and

C.M.P.No.6547 of 2021

Tamilnadu State Transport Corporation Ltd.,
Villupuram, Represented through
The Managing Director.

... Appellant / Respondent

Vs.

Chelliah

... Respondent / Petitioner

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 03.01.2020 passed in M.C.O.P. No. 11 of 2018 on the file of the II Additional District Judge, Motor Accident Claims Tribunal, Ranipet @ Vellore.

For Appellant : Mr. S. S. Santhosakumar
(change of Vakalat on 01.09.2022)

For Respondent : Mr. C. Prabakaran



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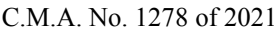
JUDGMENT

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This Civil Miscellaneous appeal has been filed by the Transport Corporation challenging the award in the Judgment and Decree passed in M.C.O.P. No. 11 of 2018, dated 03.01.2020 on the file of the II Additional District Judge, Motor Accident Claims Tribunal, Ranipet @ Vellore.

2. For the sake of convenience, the parties are referred herein according to their litigative status and rank before the Tribunal.

3. The case of the claimant is that on 13.12.2017 at about 07:30 hours, the claimant was riding a Yamaha two wheeler bearing Registration No.TN-73-K-2328 on the Chennai to Bangalore National Highway, while he reached near Axis Bank ATM at Navalpur, a TNSTC bus bearing Registration No. TN-23-N-1693 belongs to the respondent driven by its driver in rash and negligent manner, came in the opposite direction and dashed against the two wheeler of the claimant causing severe injuries to the claimant. A criminal case was also registered against the driver of the respondent bus in Cr.No.545 of 2017 under section 279, 337 I.P.C. by the



4. The respondent transport corporation has filed a counter and contended that the accident was happened only due to the negligent act on the part of the claimant while he attempted to overtake the bus, he himself sustained injury and the driver of the bus is not responsible for the accident. The respondent also disputed the age, occupation and injuries sustained and the same are to be proved by the claimant and also the compensation claimed under various heads are on the higher side, hence prays to dismiss the claim petition.

5. Before the Tribunal, the claimant himself examined as P.W.1 and on the side of the claimants Exs.P.1 to P.3 were marked, on the side of the respondent, R.W.1 was examined and no exhibits were marked.

6. Based on the evidence placed on record, the Tribunal in point No.1, has held that the rash and negligent act on the part of the driver of the



TNSTC bus is responsible for the accident. In point no.2, the Tribunal has held that the respondent Transport Corporation is liable to pay the compensation to the claimant. In point No.3, the Tribunal has quantified and granted compensation for a sum of Rs.1,00,000/- along with the interest @ 7.5% per annum from the date of filing of petition till the date of realization.

7. Aggrieved over the award and the negligent act attributed against the driver of the bus, this appeal has been filed by the Transport Corporation.

8. The learned counsel appearing for the Transport Corporation has submitted that before the Tribunal, the driver of the bus was examined and he has categorically deposed the manner in which the accident was taken place and the same was not properly appreciated by the Tribunal. The learned counsel also contended that the claimant was not wearing helmet at the time of occurrence, which is contemplate under law and there is also contributory negligent on the part of the claimant. The learned counsel further submits that the compensation awarded under various heads is on the



higher side, hence prays to modify the award.

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9. Per contra, the learned counsel appearing for the claimant has submitted that based on the evidence placed on record, the Tribunal has rightly come to the conclusion that the driver of the bus is alone responsible for the accident and granted compensation within the permissible norms, hence, prays to confirm the award passed by the Tribunal and dismiss the appeal.

10. Heard submissions made on both sides and perused the materials placed on record:

11. Before the Tribunal, the claimant himself has examined as P.W.1 and deposed that he was riding the two wheeler bearing Registration No.TN-73-K-2328 with due care and caution on the Chennai to Bangalore National Highway and while he reached near Axis Bank ATM at Navalpur, a bus bearing Registration No.TN-23-N-1693 belongs to the Tamil Nadu State Transport Corporation driven by its driver in rash and negligent manner came in the opposite direction, hit on the two wheeler of the claimant. The claimant is relied on the F.I.R. registered against the driver of



the bus to substantiate his evidence. The Transport Corporation to disprove the evidence of P.W.1, examined the driver of the bus as R.W.1. The evidence of R.W.1 is that, the injured came in the wrong direction. But no evidence placed on record to substantiate the same. In cross-examination, it is elicited that the F.I.R. was registered after the accident against the driver of the bus and the respondent has not protested the same. Similarly, Tribunal has held that the evidence of injured is made probable than the evidence of R.W.1. Before this Court also, the respondent is not able to produce any strong reason to disbelieve the evidence of claimant. The standard of proof required in the case of claim petition herein is preponderance of probability and the respondents herein has not made out any case herein to hold that their evidence is more probable than the evidence of the claimant. Hence, this Court is of the view that the finding of the Tribunal is proper and it requires no interference.

12. With regard to the quantum of compensation, the Tribunal has referred the claimant to medical board to assess the disability of the claimant sustained due to the accident and the medical board after assessing the claimant has fixed the disability as permanent disability of 10%. Thereafter,



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Tribunal has rightly adopted percentage method for granting compensation, since the disability sustained by the claimant is permanent disability and not functional permanent disability and awarded Rs.3,000/- per percentage of disability. As per guidelines issued by the Apex Court in ***Raj Kumar vs. Ajay Kumar [2011 ACJ 1]***, the claimant has not established her case that the disability suffered, has resulted in loss of earning capacity and the injury sustained has not caused any disability preventing the injured from doing her previous avocation. She can continue her regular day to day activities. This Court finds no infirmity in the compensation awarded by the Tribunal under the head disability. Similarly, the compensation awarded under other heads by the Tribunal are concerned, this Court is of the view that the same are within the permissible limit and norms and the same are hereby confirmed.

13. In the result, this Civil Miscellaneous Appeal is dismissed and the award of the Tribunal is hereby confirmed. Consequently, connected civil miscellaneous petition stands closed. No costs.

15.11.2023

stn

Index:Yes/No

Speaking Order:Yes/No



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Neutral Citation Case: Yes/No

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K. RAJASEKAR, J.

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To:

1. The II Additional District Judge,
Motor Accident Claims Tribunal,
Ranipet, Vellore.
2. The Section Officer,
V.R.Section,
High Court,
Chennai.

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