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CMA.No.485 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.M.A.No.485 of 2018

Kuppannan

...Appellant

...Vs...

The Managing Director
Tamil Nadu State Transport Corporation Limited
Villupuram

....Respondent

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 14.12.2017, made in MCOP.No.291 of 2010, by the Subordinate Judge (MACT) Gingee.

For Appellant : Mr.R.Arundattan

For Respondent : Mr.S.S.Santhosakumar



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JUDGMENT

This Civil Miscellaneous Appeal has been filed, by the claimant, against the judgement and decree, dated, 14.12.2017, made in MCOP.No.291 of 2010, by the Subordinate Judge (MACT) Gingee.

2. The Appellant/claimant has filed the claim petition before the Tribunal, seeking a compensation of Rs.6,00,000/- on various heads, for the injuries sustained by him in a motor road accident, which took place on 30.11.2010. The claim petition was resisted, on various grounds, by the Respondent Transport Corporation, by filing a counter. On the side of the claimant, PW.1 was examined and Ex.P1 to Ex.P8 were marked. On the side of the Respondent Corporation, RW.1 was examined. The Tribunal, holding that the claimant failed to prove that the vehicle belonging to the Respondent caused the accident, has dismissed the claim petition. Hence, this appeal has been filed by the claimant.

3.This Court heard the learned counsel on either side, considered their submissions and also perused the entire materials placed on record.

4.According to the learned counsel for the Appellant, when there



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are substantial evidence to show that the Respondent Corporation bus has caused the accident, due to which the claimant suffered head injuries, multiple fracture besides other severe injuries, as per Ex.P3 to P5, the Tribunal grossly erred in dismissing the claim petition without considering the oral and documentary evidence placed by the petitioner/appellant herein and hence, he seeks this Court for granting appropriate compensation to the claimant/appellant herein.

5. According to the learned counsel for the Respondent Transport Corporation, the Tribunal was right in dismissing the claim petition, by assigning valid reasons and hence, it need not be interfered with by this Court.

6. PW.1 has deposed that “on 30.11.2010 at 6.30 hours, when he was walking from Chervalagam Bus Stop on left side, towards his house, on Gingee Road, Vilupuram Division, Chennai to Thirvannamalai route bus bearing Reg. No.TN-25-N-0058, dashed him by driving in a rash and negligent manner without horn. In the result, he sustained grievous injuries in that accident”. To prove the contention, he has filed Ex.P1-FIR



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and Ex.P7-a charge sheet was also filed against the Driver of the Bus. To prove the injuries, he has filed Ex.P2-Accident Register in Gingee G.H, Ex.P3-Discharge Summary issued by Jipmer Hospital, Ex.P4-Treatment Record and Ex.P5-Medical Receipts.

7.RW.1 has stated in his cross examination that there was no accident on 30.11.2010 at 6.28 A.M, as alleged by the petitioner. Further he deposed that that “on 30.11.2010 at 6.20 P.M., two persons belonging to Tindivanam-Gingee road stopped the bus by putting a two wheeler in front of the bus in Gingee Bus Stop and asked him to come to police station. Even though the passengers has stated that no accident was happened, they did not listen to them. Hence, he changed the passengers to another bus and he went to police station where he denied the alleged accident. The police inspected the bus and asked him to give a letter in writing mentioning such accident would not happen in the said bus”. However, in support of his contention, no documentary evidence was placed before the Trial Court.



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8. On a perusal of the Ex.P1-FIR, it is clearly mentioned about registration number of the bus ie. TN-25-N-0058 and accordingly, Ex.P7-Charge sheet was also filed against the driver of the Transport Bus. Further, no documentary evidence was placed to prove the respondent's contention. Hence, it is clearly proved that the accident had occurred only due to the rash and negligent driving of the driver of the bus. Therefore, the claimant is entitled to get the compensation.

9. PW.1 has deposed that he sustained grievous injuries. A perusal of Ex.P2, Ex.P3, Ex.P4 shows that he sustained grievous injuries. He also filed disability certificate issued by the Medical Board and as per the same, he suffered 10% disability. Therefore, fixing Rs.3000/- per percentage towards disability suffered by the claimant, this court is inclined to grant compensation of Rs.30,000/- under the head of disability.

10. As per the evidence, as the claimant was working as a coolie, he would have earned a sum of Rs.6,000/- p.m. Hence, a sum of Rs.12000/- (Rs.6000/- p.m.) towards loss of income for two months is awarded. A sum of Rs.5,000/- towards transportation expenses is



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awarded. Further, a sum Rs.7,000/- towards extra nourishment is awarded.

For the pain and suffering, Rs.15,000/- is awarded and Rs.3500/- towards attendants charges is awarded as per the details given below:

S.No	Category	Award Amount (Rs.)
1	Disability (10%)	30000.00
2	Loss of Income for Two Months (6000x2)	12000.00
3	Transportation Expenses	5000.00
4	Extra Nourishment	7000.00
5	Pain and Suffering	15000.00
6	Attendants Charges	3500.00
Total Compensation		72500.00

11. Accordingly, the claimant is entitled to a total compensation of Rs.72,500/- with interest 7.5% p.a. from the date of the claim petition till the date of realisation.

12.The Respondent Transport Corporation is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is entitled to withdraw the entire compensation amount with interest, by filing proper application and by paying proper court fee.



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13.In the result, this Civil Miscellaneous Appeal is partly allowed.

No costs.

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Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

Srcm/Lbm

To

1. The Subordinate Judge (MACT) Gingee
2. The Record Keeper, VR Section, High Court, Madras



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A.A.NAKKIRAN, J.

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