



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2023

CORAM

THE HONOURABLE MR JUSTICE A.A.NAKKIRAN

CMA. No. 2519 of 2014

The Managing Director
Tamilnadu State Transport Corporation Limited,
Kancheepuram

...Appellant

vs

Dhanalakshmi

...Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 19.03.2012 made in M.C.O.P.No.191 of 2007 on the file of Motor Accidents Claims Tribunal, Principal Subordinate Judge, Chenglepet.

For Appellant : Mr.S.S.Santhosakumar

For Respondent : No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the award dated 19.03.2012 made in M.C.O.P.No.191 of 2007 on the file of Motor Accidents



Claims Tribunal, Principal Subordinate Judge, Chenglepet.

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2. The appellant is the respondent/Transport Corporation in the M.C.O.P.No.191 of 2007 on the file of Motor Accidents Claims Tribunal, Principal Subordinate Judge, Chengalpattu. The claimant has filed the above said claim petition claiming a sum of Rs.15,00,000/- in M.C.O.P.No.191 of 2007 as compensation for the injuries sustained to the claimant in the accident that took place on .08.01.2007.

3. The Tribunal considering the pleadings, oral and documentary evidences held that the accident occurred only due to the rash and negligent driving by the driver of the bus belonging to the appellant and thus directed the appellant/ Transport Corporation in M.C.O.P.No.191 of 2007 to pay a sum of Rs.13,28,640/- as compensation to the claimant..

4. Challenging the said award dated 19.03.2012 made in M.C.O.P.No.191 of 2007, the appellant has come out with the present appeal.

5. The learned counsel appearing for the appellant/Transport



Corporation has contended that the judgment and decree passed by the

Tribunal is contrary to law, weight of evidence and probabilities of the case.

The Tribunal failed to note that the driver of the appellant was proceeding in the bus slowly and cautiously at the time of accident. It failed to consider that the counter statement filed by the appellant before the Tribunal. It erred in relying upon the evidence of the claimant's side in respect of negligence aspect who was an interested witness for getting higher compensation. It erred in relying upon Ex.P1 which was marked through the claimant's side without examining the author of the documents. It failed to consider that no police officer was examined to prove the negligence on the part of the bus driver. The findings of the Tribunal in respect of negligence aspect contrary to the evidence of records is perverse and unsustainable in the eye of law. It erred in relying upon the evidence of the claimant's side in respect of age and income of the deceased. It failed to consider either the owner or the insurer of the two wheeler were not impleaded in the proceedings. It failed to consider the additional counter statement filed on behalf of the appellant questioning the maintainability of the claim petition filed by the respondent's husband in the capacity of next friend. It has arrived compensation which is quiet against the principles laid down by this court as well as the Apex Court.



It erred in awarding Rs.13,38,640/- plus 7.5% interest from the date of petition which is without any basis. In any event, the award is highly excessive. Hence, he prayed for setting aside the award passed by the Tribunal.

6. Heard the learned counsel appearing for the appellant-Transport Corporation and perused the entire materials on record.

7. From the materials available on record, it is seen that the PW1 who is the husband of the claimant had deposed that due to the grievous injuries sustained by her in the said accident, she is unable to speak and suffering 100% disability. But PW1 is not the eye witness of the accident. PW2 who is the conductor of the bus had deposed that the accident happened in the rash and negligent driving of the driver of the bus. To corroborate the oral evidence of PW1 and PW2, Ex.P1 / copy of FIR has been marked. A perusal of Ex.P2/certificate copy of the charge sheet has been charge sheeted for the negligent act of the driver of the bus. The statement of the RW1 cannot be accepted because it is not supported by any documentary evidence. The claimant through oral and documentary evidence proved that the accident had



happened due to the rash and negligent driving of the driver of the bus.

Hence, the appellant is liable to pay compensation to the claimant.

8. A perusal of Ex.P5 to Ex.P19 shows that the claimant has sustained grievous injuries due to the said accident. Ex.P33 is the disability certificate showing 100% disbaility of the injured. The claimant sustained multiple grievous injury and head injury in the said accident. Hence, the decision of the Tribunal in holding that the appellant is responsible for the accident and directing them to pay compensation of Rs.13,28,640/- is in order. Therefore, the decision of the Tribunal is a reasonable one and the same does not need any interfernce of this court.

9. In view of the above discussion and considering all the materials on record in its entirety, the total compensation awarded by the Tribunal is not excessive.

10. In the result, this Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is hereby confirmed. No costs.



11. Since the appellant has already deposited the entire award amount before the Tribunal, this Court now directs the Tribunal to transfer the award amount along with accrued interest to the bank account of the claimant through RTGS within a period of two weeks thereafter.

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Index : Yes

Internet : Yes

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To

- 1.The Motor Accidents Claims Tribunal,
Principal Subordinate Judge,
Chenglepet.
- 2.The Section Officer,
VR Section,
High Court,
Madras.



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A.A.NAKKIRAN.,J.

gv

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