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CMA No.2527 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2023

CORAM :

THE HONOURABLE **MR.JUSTICE SUNDER MOHAN**

C.M.A.No.2527 of 2022
and C.M.P. No.19633 of 2022

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai,
Chennai – 2.

..

Appellant

Vs.

1.Mrs.Abiramasundari
2.Mr.Rajan

..

Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 19.11.2021 made in MCOP.No.1754 of 2019 on the file of the Motor Accidents Claims Tribunal (Special Sub Court No.2), Court of Small Causes, Chennai.

For Appellant : Mr.A.Vinothraj

For Respondents : Mr.Navaneetha Krishnan



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JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the appellant/Transport Corporation questioning the impugned award of the Tribunal.

2. The appellant / Transport Corporation is the second respondent in MCOP.No.1754 of 2019, on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.2, Small Causes Court, Chennai.

3. According to the respondents, on the date of accident, while the deceased was travelling as a passenger in the MTC Bus belonging to the appellant from Vaishanava College to house at Tondiarpet, at T.II Road, Near Corporation Zonal Office IV, suddenly a dog crossed the road due to which the driver of the bus applied sudden break. In the said impact, the deceased fell down from the front door of the bus and back wheel tyre ran over him. He was immediately admitted in the Govt. Stanley hospital. In spite of treatment, he died in the hospital. Hence, the respondents filed the claim petition claiming a sum of Rs.50,00,000/- as compensation against the



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respondent.

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4. The appellant filed counter denying the averments made in the claim petition. According to the appellant, the bus was proceeding slowly on Thiruvottriur high road. While nearing Tondiarpet Corporation Zonal office, the deceased taking advantage of the slow motion of the bus, alighted from the bus through the front entrance, lost balance, fell down and caught on the left rear wheel of the bus and invited the accident. The driver of the bus is not responsible for the accident and hence the appellant is not liable to pay any compensation to the appellants. The compensation claimed by the respondents is highly excessive and prayed for dismissal of the claim petition.

5. The 2nd respondent examined himself as PW1 and one Manoharan, eye witness to the accident was examined as PW2. Thirteen documents were marked as Exs.P.1 to Exs.P.13. On the side of the appellant, the driver of the bus was examined as RW1 and two documents were marked as Exs.R1 & R2.

6. The Tribunal after considering the evidence and documents filed on the side of the appellant as well as respondents, held that the accident



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occurred due to rash and negligent driving by the driver of the bus belonging to the appellant and directed the appellant to pay a sum of Rs.19,24,400/- as compensation to the respondents. Aggrieved over the said award, the appellant / Transport Corporation has filed the present appeal.

7. The learned counsel appearing for the appellant submitted that the Tribunal erred in fixing the liability on the appellant. The deceased attempted to get down from the moving bus, fell down and invited the accident. The deceased alone is responsible for the accident and hence the appellant is not liable to pay any compensation to the respondents. On the complaint given by one Sankarapandian, FIR was registered in Crime No.23 of 2019. Upon investigation, it was found that the driver of the bus belonging to the appellant was not rash and negligent in driving the bus. The learned counsel further submitted that the driver of the bus was examined as RW1 and the Tribunal had not considered his evidence while fixing the liability on the appellant and prayed for setting aside the award of the Tribunal.

8. Per contra, the learned counsel appearing for the respondents



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contended that PW1 & PW2 have clearly stated in their deposition that the accident had occurred only due to the rash and negligent driving by the driver of the bus belonging to the appellant. Therefore, the Tribunal had rightly accepted the evidence of PW1 & PW2 to hold that the appellant/Transport Corporation is liable to pay the compensation to the respondents and prayed for dismissal of the appeal.

9. Heard the learned counsel appearing for the appellant as well as respondents and perused the materials available on record.

10. The only question involved in the instant appeal is whether the Tribunal is right in fixing the liability on the appellant to pay the compensation to the respondents.

11. From the materials on record, it is seen that the respondents have examined PW1 & PW2 to prove the manner of accident. PW2 who is an eye-witness to the accident has deposed that the deceased fell down from the bus due to the sudden break applied by the driver of the bus. Though he was



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cross examined on the side of the appellant, nothing was elicited to discredit his version. RW1, the driver of the bus has admitted in the cross examination that the deceased was standing inside the bus when the accident took place. This would contradict the version of the appellant that the deceased attempted to alight from the moving bus, fell down from the bus and invited the accident.

12. Considering the evidence adduced on behalf of the respondents and the evidence of RW1, driver of the bus, this court is the view that the respondents have established that the accident occurred only due to the rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation. Hence, the finding of the Tribunal fixing the liability on the appellant / Transport Corporation cannot be faulted. Further, the quantum of compensation awarded by the Tribunal is also just and reasonable and hence the same is confirmed.

13. In the result, this Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal in MCOP.No.1754 of 2019.



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The appellant/Transport Corporation is directed to deposit the compensation amount awarded by the Tribunal alongwith interest and costs, less the amount already deposited if any, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents are permitted to withdrawn the award amount alongwith interest and costs, on the basis of apportionment fixed by the Tribunal, less the amount, if any already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

26.07.2023

To

1. The Motor Accidents Claims Tribunal
(Special Sub Court No.2),
Court of Small Causes, Chennai.

2. The Section Officer,
VR Section
High Court, Madras.



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SUNDER MOHAN, J

rgr

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