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C.M.A.Nos.469 and 477 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

**C.M.A.Nos.469 and 477 of 2023
and
C.M.P.Nos.3944, 3946 and 3979 of 2023**

C.M.A.No.469 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Div.I Ltd.,
No.3/137, Salamedu, Vazhuthareddy Post,
Villupuram - 605401.

... Appellant

Vs.

M.Chandru

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgement dated 18.02.2021 in MCOP No.40 of 2019 passed by the Motor Accident Claims Tribunal Judge, Uthangarai, Sub Court for Motor Accident Claim Cases, Uthangarai and allow the C.M.A.

C.M.A.No.477 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Div.I Ltd.,
No.3/137, Salamedu, Vazhuthareddy Post,
Villupuram - 605401.

... Appellant



Vs.

D.Naveen

... Respondent

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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgement dated 18.02.2021 in MCOP No.41 of 2019 passed by the Motor Accident Claims Tribunal, Subordinate Judge at Uthangarai and allow the C.M.A.

For Appellant
in both C.M.As : Mr. V.Gopalsamy

COMMON JUDGMENT

These Civil Miscellaneous Appeals are directed as against the common Award and decree passed in M.C.O.P.Nos.40 and 41 of 2019, dated 18.02.2021 on the file of the Motor Accident Claims Tribunal, Subordinate Judge at Uthangarai.

2. The appellant is the respondent and respondents are the claimants in the claim petitions filed before the Tribunal.

3. The case of the claimants /respondents is that on 08.11.2018, they along with two others, were returning to their house in the motor cycle bearing Registration No.TN-34-Y 2973, after collecting their hall ticket for



the examination from the College. The driver of the bus bearing Registration No. TN-32-N 4044 which came in the opposite direction, drove in a rash and negligent manner and dashed against the two wheeler which was driven by the respondents. Due to the impact, the respondents/claimants in both the appeals sustained grievous injuries. Therefore, they filed claim petitions.

4. Resisting the claim Petitions, the appellant/Transport Corporation filed a counter and stated that only due to rash and negligent driving of the respondents/claimants, the accident took place and as such, the respondent/Transport Corporation is not at all liable to pay any compensation as claimed by the claimants.

5. On the side of the claimants, P.W.1 and P.W.2 were examined and documents were marked as Exs.P.1 to P.13. On the side of the Transport Corporation, R.W.1 was examined and no exhibits were marked and Court document was marked as Ex.C.1.

6. On a perusal of the oral and documentary evidence, the Tribunal has awarded the compensation befitting the injuries sustained by the



claimants/respondents. The only ground raised by the appellant herein is that the rider of the motor cycle did not possess any valid licence.

Admittedly, the respondents along with two other persons, were riding the motor cycle viz., in triples. Therefore, only because of their rash and negligent driving of the motor cycle, the accident had taken place and as such, the appellant is not liable to pay any compensation.

7. On a perusal of the records, it reveals that though the appellant had taken a specific stand that the rider of the motor cycle did not possess any valid licence and only because of their rash and negligent driving, the accident had taken place, they failed to produce any material evidence and also failed to examine any of the passengers, who travelled in the bus, in order to prove that the rider of the motor cycle had driven the motor cycle in a rash and negligent manner.

8. It is settled law that the appellant/Transport Corporation is liable to establish the fact of travelling by three persons in a motor cycle, which is the only reason for the accident and if such evidence is not marked, then the appellant is required to make good the loss to the claimants. In the light of the said settled position of law, the onus of the proof vest upon the appellant



is to prove Triples riding the motor cycle, was the main reason for the accident. Except the driver of the appellant, no one was examined in order to prove the manner in which the accident had taken place. Further, on the complaint, the First Information Report has also been registered as against the driver of the appellant/Transport Corporation in Crime No.359 of 2018 under Sections 279 and 337 of IPC. Therefore, there is absolutely no evidence to show that the accident had taken place only due to the rash and negligent driving of the rider of the motor cycle. While that being so, the Tribunal, on the strength of other medical records and bills produced by the claimants, had rightly awarded the compensation to the respondents/claimants. This Court finds no infirmity or illegality in the impugned Award passed by the Tribunal.

9. Accordingly, these Civil Miscellaneous Appeals are dismissed at the admission stage itself. Consequently, the connected Miscellaneous Petitions are dismissed. No costs.

01.03.2023

Speaking/Non-speaking order

Index : Yes/No

Neutral Citation : Yes/No

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G.K.ILANTHIRAIYAN,J.

Kv

- To
1. The Motor Accident Claims Tribunal,
Subordinate Judge at Uthangarai
 2. The Section Officer,
V.R. Section, High Court of Madras.

C.M.A.Nos.469 and 477 of 2023

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