



C.M.A.No.2003 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.07.2023

CORAM:  
**THE HONOURABLE MR.JUSTICE SUNDER MOHAN**

**C.M.A.No.2003 of 2022**  
**and C.M.P.No.15248 of 2022**

The Managing Director,  
The Tamil Nadu State Transport Corporation (Ltd)  
Trichy.

...Appellant

Vs.

C.Sakthivel

...Respondent

**PRAYER :** The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 22.01.2019 in M.C.O.P.No.107 of 2016 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Harur.

For Appellant : Mr.M.Murali Vinoth

For Respondents : No appearance



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### **J U D G M E N T**

This Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation challenging the award dated 22.01.2019 in M.C.O.P.No.107 of 2016 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Harur.

2.The respondent herein filed the claim petition claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by him in the accident that took place on 23.05.2016. According to the respondent, on the date of accident i.e., on 23.05.2016, at about 3.30 hours, while the driver of the bus belonging to the appellant drove the same in a rash and negligent manner without observing the traffic rules and regulations and the right portion of the bus swerved over the lorry, which was coming in the opposite direction and caused the accident; and due to the accident, the respondent sustained grievous injuries and he was entitled to a claim of Rs.20,00,000/-.



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3. The appellant/Transport Corporation filed counter statement denying the averments made by the respondent and contended that the driver of the bus is not responsible for the accident. The accident occurred due to negligence of the respondent in stretching the hand outside the bus and hence, the respondent is solely responsible for the accident. Therefore, the appellant was not liable to pay any compensation to the respondents. The appellant had also denied the age, avocation and income of the respondent. In any event, the compensation claimed by the respondent is excessive and prayed for dismissal of the claim petition.

4. Before the Tribunal, the respondent examined himself as P.W.1 and marked seven documents as Exs.P1 to P7. The appellant/Transport Corporation examined Baskaran, the driver of the bus as R.W.1 and did not let in any documentary evidence.

5. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by



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the driver of the bus belonging to the appellant/Transport Corporation and directed the appellant to pay a sum of Rs.1,58,477/- as compensation to the respondent.

6. Against the said award dated 22.01.2019 in M.C.O.P.No.107 of 2016, granting compensation to the respondent, the appellant/Transport Corporation has come out with the present appeal.

7. The learned counsel for the appellant submitted that the finding of the Tribunal as regards negligence is erroneous. Admittedly, the respondent had stretched his hand outside of the bus and a lorry which came on the opposite direction very close to the bus, had touched the right side of the bus belonging to the appellant. Since the respondent was stretching his hand outside the bus, his hand was fractured. The driver of the bus belonging to the appellant had given a complaint before the Thottiam Police Station and a case in Crime No.139 of 2016 was registered for the offence under Sections 279 and 337 of IPC against an unknown person, who drove the said lorry.



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Therefore, the finding of the Tribunal for fixing the entire negligence on the part of the driver of the bus belonging to the appellant cannot be sustained. The learned counsel further submitted that the respondent also have contributed for the accident and he had violated the repeated warning signs in the bus, which reads as follows:

“கரம் சிரம் புறம் நீட்டாதீர்கள்”

In spite of the said warning, the respondent has stretched his hand outside of the bus, which resulted in the unfortunate accident. Therefore, the Tribunal atleast ought to have fixed contributory negligence on the part the respondent. The learned counsel fairly submitted that as regards the quantum, the appellant has no grievance.

8. Though notice has been served on the respondent, none has entered appearane on behalf of the respondent.

9. This Court finds that the quantum of compensation awarded by the Tribunal is just and reasonable and the learned counsel for the appellant also



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fairly conceded the said fact. However, as regards the negligence, it is the case of the appellant that the accident has taken place only because the claimant had stretched his hand outside the bus. However, the evidence of the respondent would show that the driver of the bus drove the bus in a rash and negligent manner and went close to the lorry, which came in the opposite direction. The evidence of P.W.1 further discloses that the First Information Report was registered by the driver of the bus belonging to the appellant and his version is false. It is seen that the appellant has also taken action against the driver for the alleged incident. Therefore, this Court is of the view that though the respondent had ignored the warning signs, the accident took place only on account of the rash and negligent driving by the driver of the bus belonging to the appellant in going very close to the vehicle coming on the opposite side. Hence, the respondent cannot be stated to have contributed to the accident. Therefore, this Court is of the view that the finding of the Tribunal in fixing the entire liability on the driver of the bus belonging to the appellant cannot be faulted and there is no reason to interfere with the finding and award of the Tribunal.



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10. In the result, this Civil Miscellaneous Appeal is dismissed and the sum of Rs.1,58,477/- awarded by the Tribunal as compensation to the respondent along with interest and costs is confirmed. The appellant/ Transport Corporation is directed to deposit the entire award amount along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent is permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. Consequently, connected Miscellaneous Petition is closed. No costs.

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**SUNDER MOHAN,J.**

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To

- 1.The Motor Accident Claims Tribunal /  
Subordinate Judge, Harur.
- 2.The Section Officer  
VR Section, High Court of Madras.

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