



C.M.A.(MD).No.545 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD).No.545 of 2023

and

C.M.P.(MD).No.7084 of 2023

The General Manager
Tamil Nadu Transport Corporation,
Marudhupathi,
Managiri Road,
Karaikudi.

... Appellant

-Vs-

V.Kalyani

... Respondent

PRAYER: The Civil Miscellaneous Appeal is filed under Section 173 (1) of the Motor Vehicles Act, 1988, against the judgment and award made in M.C.O.P.No. 21 of 2019, dated 23.10.2021, on the file of the Motor Accident Claims Tribunal, Sub Court, Ramanathapuram.

For Appellant : Mr.D.Sivaraman



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J U D G M E N T

Challenging the award passed by the Motor Accident Claims Tribunal, Sub Court, Ramanathapuram in M.C.O.P.No.21 of 2019, dated 23.10.2021, the present appeal has been filed by the Transport Corporation.

2. The brief facts leading to the filing of this appeal are as follows:

On 27.06.2018, when the claimant was travelling in a bus bearing Registration No.TN 63 N 1598, the bus was driven in a rash and negligent manner and while overtaking a TATA AC vehicle, which was proceeding in front of the bus, the bus was dashed against the bus bearing Registration No.TN 63 N 1446. As a result, the claimant, who was seated in the last rear portion of the bus sustained grievous injuries and his right hand cut into three pieces. The injured was aged about 52 years and he was a coolie and earning a sum of Rs.10,000/- per month.

3. It is the contention of the respondent/Transport Corporation before the Tribunal that the injured has kept his hand outside the bus and despite the



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warning given by the conductor, he did not take the hand inside. As a result, he sustained injuries.

4. Before the Tribunal, on the side of the petitioner, P.W.1 was examined and Exs.P1 to P6 were marked and on the side of the respondent, R.W.1 was examined and no document was marked.

5. The Tribunal, after analysing the oral and documentary evidence and the F.I.R., found that only the driver of the offending vehicle driven the vehicle in a rash and negligent manner and dashed against the claimant and awarded a sum of Rs.11,95,292/-.

6. It is the main contention of the learned counsel for the appellant/Transport Corporation that only the injured has kept his hand outside the bus, which resulted in the accident and he lost his hand. Therefore, some contributory negligence has to be fixed against the claimant.



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7. In the light of the above submission, now the point for consideration in this appeal is whether the appellant/Transport Corporation has proved the contributory negligence on the part of the injured.

8. It is not in dispute that while overtaking the vehicle proceeding in front of the bus, the bus driver swerved the bus right side. As a result, the bus was dashed against the body of the TATA AC vehicle. In that process, the injured has sustained injuries. It is an admitted fact that the injured was seated in a rear side of the bus and R.W.1 was examined in this regard and while driving the vehicle, R.W.1 could not have noticed how the injured was seated.

9. Further, the evidence of R.W.1 itself clearly indicate that already departmental action has been initiated against him for driving the vehicle in a rash and negligent manner and the accident also occurred, while overtaking the vehicle proceeding in front of the bus. This fact clearly indicate that the driver of the bus was negligent in driving the vehicle and caused the accident. Therefore, the contention of the appellant that there was a contributory negligence on the part of



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the claimant cannot be countenanced. As far as the quantum of compensation is concerned, this aspect clearly established on record that the injured was an agricultural coolie and his right hand has been completely amputated. Therefore, he may not be in a position to continue any work particularly the agricultural coolie. Such being the position, the Tribunal has rightly adopted the multiplier method. Hence, the award passed by the Tribunal does not require any interference and there is no merit in this appeal.

10. In the result, the Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal is confirmed. The appellant / Transport Corporation is directed to deposit the entire award amount within a period of one month from the date of receipt of a copy of this judgment with interest at the rate of 7.5% per annum. On such deposit, the claimant is permitted to withdraw the same with accrued interest and cost. No costs. Consequently, the connected Miscellaneous Petition is closed.

23.06.2023

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To

- 1.The Motor Accident Claims Tribunal,
Sub Court,
Ramanathapuram.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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