



C.M.A.(MD)No.704 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.704 of 2022

Karaikudi Tamil Nadu State Transport Corporation,
Rep by its Managing Director,
Madurai District.

...Appellant /1st Respondent

Vs.

1.Paunthai
2.Sureshkumar

..1st Respondent/Claimant

...2nd Respondent/2nd Respondent

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the impugned award passed in M.C.O.P.No. 229 of 2015 dated 29.01.2020 on the file of the MACT (Special Sub Court), Madurai.

For Appellant : Mr.P.M.Vishnu Varthanan

For R1 : Mr.K.Kumaravel

For R2 : No Appearance

JUDGMENT

The present Civil Miscellaneous Appeal is filed challenging the award passed by the Motor Accident Claims Tribunal (Special Sub Court), Madurai in M.C.O.P.No.229 of 2015, dated 29.01.2020.



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2.For the sake of convenience, the parties are referred to herein as per their rank before the Tribunal.

3.The brief facts leading to the filing of the claim petition are as follows:

On 19.06.2014, when the injured was travelling as a pillion rider in a motorcycle bearing Registration No.TN-58-S-8624, the Transport Corporation bus bearing Registration No.TN-63-N-1550, which was driven in a rash and negligent manner, hit the TATA Ace Vehicle bearing Registration No.TN-63-H-9442, which was coming behind the motorcycle, thereby the TATA Ace vehicle hit the motorcycle of the claimant from the behind. As result, the claimant sustained serious injuries. Hence, the claimant had filed a claim petition seeking compensation.

4.The Transport Corporation before the Tribunal took a stand that the TATA Ace vehicle was trying to overtake the motorcycle and in that process, the said vehicle came to the right side of the road. At that time, to avoid the accident, the driver of the bus applied break. However, the TATA Ace vehicle hit the bus. There is no negligence on the part of the driver of the Transport Corporation.



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5.Before the Tribunal, on the side of the claimants, three witnesses were examined as P.W.1 to P.W.3 and Ex.P1 to Ex.P15 were marked. On the side of the respondents, one witness was examined as R.W.1 and no documentary evidence was marked. The disability certificate was marked as Ex.C1.

6.On appreciation of the evidence available on record, the Tribunal found that only the driver of the Transport Corporation drove the bus in a rash and negligent manner and awarded the compensation as follows:

S.No.	Particulars	Amount
1.	For disability	Rs.5,04,000/-
2.	Pain and sufferings	Rs. 50,000/-
3.	For nutritious food	Rs. 5,000/-
4.	Attendant charges	Rs. 15,000/-
5.	Loss of belongings	Rs. 2,000/-
6.	Transportation charges	Rs. 4,000/-
7.	Medical expenses	Rs.2,90,000/-
	Total	Rs.8,70,000/-

Challenging the same, the present civil miscellaneous appeal has been filed by the Transport Corporation.



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7.The learned counsel for the appellant contended that the driver of the bus was not negligent in driving the bus. He drove the bus in a cautious manner. In fact only the TATA Ace vehicle hit the motorcycle of the claimant from the behind. Hence, the Tribunal had erred in fixing the liability on the part of the appellant.

8.Whereas, the learned counsel for the claimant would submit that in an another claim petition with regard to the same incident filed by some other claimant, the Tribunal had held that only the driver of the Transport Corporation bus had caused the accident in a negligent manner. The Transport Corporation had satisfied with the said award and deposited the entire amount. Further, the Transport Corporation had not filed any appeal against the said finding and the above case had attained its finality. Such being the position, now the appellant corporation cannot take a different view as if the driver of the Transport Corporation was not negligent in driving the bus.

9.In view of the above submissions, now the points arise for consideration in this appeal are:



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(a)whether the Tribunal is right in fixing the liability on the part of the driver of the appellant vehicle?

10.I have heard the learned counsel appearing on either side and perused the materials placed on record.

11.It is the contention of the appellant that only the TATA Ace vehicle caused the accident. R.W.1 in his evidence admitted that the TATA Ace vehicle was proceeding in front of the bus. This fact clearly indicates that the bus only hit the TATA Ace vehicle, which resulted in the accident. FIR was also registered against the driver of the offending vehicle. In an another claim petition in M.C.O.P.No.1304 of 2014 arisen out of the same accident, the negligence is fixed on the part of the driver of the Transport Corporation. The said award is also marked as Ex.P10. The said award was passed on 30.09.2015 and the appellant Transport Corporation had also deposited the entire compensation amount satisfying with the award. When the finding in respect of the same accident is not challenged and attained finality, now the appellant cannot take a different view in this appeal contending that the driver of the appellant corporation is not negligent



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in driving the bus. The very factum of FIR filed against the driver of the offending vehicle and the award in an another claim petition arisen out of the same accident clearly shows that the stand of the appellant is not correct.

12.The Tribunal considering the severe injuries sustained by the claimant on the head and hip, amputation of the right toe and multiple fractures, particularly the medial report, had fixed the notional income of the injured claimant at the rate of Rs.6,000/- and adopted multiplier method and awarded the compensation as stated above.

13.Taking note of the documents particularly, the medical certificate and the nature of injuries sustained by the claimant, this Court is of the view that the multiplier method adopted by the Tribunal cannot be found fault. In fact the spinal card of the claimant got damaged and there is functional disability at the rate of 40%. In such view of the matter, this Court does not find any infirmity or irregularity in the well reasonable award passed by the Tribunal warranting interference of this Court.



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14. Accordingly, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal is confirmed.

15. The Transport Corporation is directed to deposit the entire compensation amount awarded by the Tribunal with interest and costs to the credit of M.C.O.P.No.229 of 2015, on the file of the Motor Accident Claims Tribunal /Special Sub Court, Madurai within a period of six weeks from the date of receipt of a copy of this judgment, less the amount, if any already deposited. On such deposit, the claimant is permitted to withdraw the amount, less the amount if any already withdrawn, by making necessary application before the Tribunal. No costs.

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NCC : Yes/No
Index : Yes/No
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To

1. The Motor Accident Claims Tribunal /
Special Sub Court, Madurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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N.SATHISH KUMAR, J.

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