



C.M.A(MD)No.100 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.06.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.100 of 2018

and

C.M.P(MD)No.1521 of 2018

The Managing Director,
M/s.Tamil Nadu State Transport Corporation Ltd.,
Dindigul Division,
Dindigul.

... Appellant/Respondent

Vs.

P.Sivagnanam

... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, III Additional Sub Court, Tiruchirapalli in M.C.O.P.No.605 of 2009, dated 18.07.2014.

For Appellant : Mr.D.Sivaraman

For Respondents : No Appearance



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JUDGMENT

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The present appeal has been filed by the transport corporation challenging the award passed by the Motor Accident Claims Tribunal, Tiruchirappalli in M.C.O.P.No.605 of 2009 primarily on the ground of negligence.

2. According to the injured claimant, he was travelling as a pillion rider which was driven by one Ravi Kumar on 01.07.2008. At about 06.00 p.m., in front of the exit gate of central bus stand, Tiruchirappalli, when the two wheeler was driven in a cautious manner, the bus belonging to the transport corporation came from behind in a rash and negligent manner and dashed against the petitioner's bike and the petitioner. Due to the said accident, the injured claimant was thrown away and he sustained injuries. He had sought for a compensation of Rs.4,00,000/-.

3. The transport corporation has filed a counter contending that they are not responsible for the said accident and it has happened only due to the rash and negligent driving on the part of the rider of the two



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wheeler. They have also questioned the manner of accident and the quantum of compensation as prayed for.

4. The tribunal after rejecting Exhibit R.1/the judgment of the criminal Court, arrived at a finding that the driver of the transport corporation was responsible for the said accident and therefore, they are liable to pay the compensation.

5. Considering the fact that the injured claimant was a sub staff in a Central Government Department and he was earning a sum of Rs.30,000/- at the time of the accident, the tribunal has fixed a sum of Rs.92,000/- towards disability, a sum of Rs.30,000/- towards pain and suffering, a sum of Rs.2,86,457/- towards medical expenses, a sum of Rs.5,000/- towards extra nourishment, a sum of Rs.2,000/- towards loss of estate, a sum of Rs.3,000/- towards loss of dress, a sum of Rs.5,000/- towards transport charges, a sum of Rs.5,000/- towards attender charges and a sum of Rs.20,000/- towards future medical expenses. Totally, a sum of Rs.4,48,457/- was awarded. This award is under challenge in the present appeal primarily on the ground of negligence.



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6. According to the learned counsel appearing for the appellant/transport corporation, the accident has taken place only due to the negligence on the part of the rider of the two wheeler. In fact, the two wheeler had dashed against the front side of the bus. Hence, the rider of the two wheeler is the tortfeasor. Therefore, the liability to pay compensation ought not to have been fixed upon the transport corporation. Hence, he prayed for allowing the appeal.

7. The appellant/transport corporation has not chosen to file the Motor Vehicle Inspector's report to show whether the rear portion or the front portion of the two wheeler got damaged in the accident. In Paragraph No.5 of the counter, it has been contended that in any event, the accident has happened only due to the contributory negligence on the part of the driver of the two wheeler. However, the corporation has not chosen to implead either the driver of the two wheeler or the owner and the insurance company of the said two wheeler in order to establish the said contributory negligence. Without impleading the owner of the two wheeler, the question of raising the plea of contributory negligence in the appeal does not arise.



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8. Considering the fact that the injured claimant sustained serious injuries in various parts of the body, this Court does not find any reason to interfere in the quantum of award. There are no merits in the appeal.

9. Hence, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

26.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.The Motor Accident Claims Tribunal,
III Additional Sub Court,
Tiruchirapalli.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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Judgment made in
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