



C.M.A.(MD).No.550 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.550 of 2016

and

C.M.P(MD) No.6577 of 2016

The Managing Director,
Tamil Nadu State Express Transport
Corporation Limited,
Division – 1,
Pallavan Salai,
Chennai – 2.

..... Appellant/ Respondent

-vs-

M.Suresh Kumar

.... Respondent/ Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P. No. 3738 of 2013, dated 27.01.2014, on the file of the Motor Accidents Claims Tribunal/ Special Sub-Court, Tiruchirappalli.

For Appellant : Mr.P.Prabhakaran

For Respondent : No appearance



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J U D G M E N T

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The present Civil Miscellaneous Appeal has been filed by the Transport Corporation, challenging the Award passed by the Motor Accidents Claims Tribunal/ Special Sub-Court, Tiruchirappalli.

2. The injured/ claimant had filed M.C.O.P.No.3738 of 2013, before the Motor Accidents Claims Tribunal/Special Sub-Court, Tiruchirappalli contending that he was travelling as a passenger in the appellant Transport Corporation bus on 11.01.2006 from Trichy to Madurai. At that time, the driver of the appellant Transport Corporation bus had driven the vehicle in a rash and negligent manner and in an uncontrolled speed, met with an accident, and due to the said accident, the claimant got injured. The claimant had prayed for a compensation of Rs.3,00,000/- (Rupees Three Lakhs only).

3. The Transport Corporation has filed a counter contending that the driver was driving the vehicle very slowly following the Traffic Rules and Regulations. However, the lorry that was coming from behind the bus had dashed against the backside portion of the bus, which resulted in uncontrolled



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movement of the bus. Therefore, according to the respondent/ Transport Corporation only the lorry driver was responsible for the said accident. However, after causing the accident, the said lorry had fled away and therefore the lorry could not be identified. The Conductor of the bus had lodged an FIR as against the said unknown lorry and its driver.

4. It is the specific stand of the claimant that the Transport Corporation bus driver had driven the vehicle in a rash and negligent manner and caused the accident by dashing the bus. There is no reference in the complaint with regard to the dashing of the lorry from the backside of the bus. However, the respondent Corporation has specifically pleaded that the bus was hit from its back side by a rash and negligent driving of the lorry. Therefore, the entire burden is upon the Transport Corporation to establish that the bus was hit by a lorry on its rear side.

5. A perusal of the judgment would clearly indicate that the respondent has not filed any documents, especially, the report of the Motor Vehicles Inspector which would clearly disclose which portion of the bus got damaged due to the accident. In case, if the bus was hit by a lorry on the back side, the



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Motor Vehicles Inspector's report would have clearly revealed about the damage caused to the bus on its backside. However, the Corporation has not chosen to mark the said report of the Motor Vehicle's Inspector. Therefore, the contention of the Transport Corporation that the bus was hit from back side by a lorry, is not legally sustainable.

6. The disability certificate reveals the disability at 34%. However, the Tribunal had taken 32% as disability and proceeded to award a sum of Rs. 64,000/- (Rupees Sixty Four Thousand only) under the head of permanent disability. The petitioner has claimed that the Tribunal has awarded a sum of Rs.10,000/- (Rupees Ten Thousand only) towards pain and suffering and Transportation to Hospital and Extra nourishment of Rs.10,000/- (Rupees Ten Thousand only). The Tribunal has also awarded a sum of Rs.2,000/- (Rupees Two Thousand only) towards Medical Assistance, rendered by the others to the petitioner in the hospital. The Medical Bills as per Ex.P.5 a sum of Rs.34,195/- (Rupees Thirty Four Thousand One hundred and Ninety Five only) has been awarded and a consolidated sum would be arrived at a sum of Rs.1,20,195/- (Rupees One Lakh Twenty Thousand One Hundred and Ninety Five only). This Court does not find that the quantum of compensation under



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any one of the heads is exorbitant or unreasonable. Viewed from any angle I do not find any merits in the Civil Miscellaneous Appeal.

7. Accordingly, the Civil Miscellaneous Appeal stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

07.03.2023

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

1. The Motor Accident Claims Tribunal/ Special Sub-Court,
Tiruchirappalli.



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R.VIJAYAKUMAR,J.

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