



C.M.A.(MD).No.312 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISHKUMAR

C.M.A.(MD).No.312 of 2023

and

C.M.P.(MD).No.3915 of 2023

The Tamil Nadu State Transport
Corporation (Madurai Limited),
through the Managing Director,
Bye Pass Road,
Madurai.

... Appellant

Vs.

1.S.V.Jawahar
2.Sikkantha Basha
3.The Manager,
M/s.Cholamandalam General Insurance,
Near Sri ENT Hospital,
Kalavasal,
Madurai.

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.44 of 2017, dated 31.01.2019 on the file of the Motor Accident Claims Tribunal, Sub Court, Paramakudi.



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C.M.A.(MD).No.312 of 2023

For Appellant : Mr.K.Sudalaiyandi
For R1 : Mr.D.Senthil
For R3 : M/s. K.S.Shivashankari

JUDGMENT

Challenging the award passed by the Motor Accident Claims Tribunal, Sub Court, Paramakudi in M.C.O.P.No.44 of 2017, dated 31.01.2019, the present appeal has been filed by the Insurance Company.

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

On 09.05.2016, at about 7.00 p.m., while the injured was travelling in an Auto bearing Registration No.TN 59 BV 3111, Madurai – Rameswaram National Highways, from West to East, the bus bearing Registration No.TN 58 N 1105 came in an opposite direction in a rash and negligent manner and dashed against the auto. As a result, the petitioner sustained injuries. Therefore, he filed a petition before the Tribunal claiming a sum of Rs.5,00,000/- as compensation. The first respondent took a stand that the driver of the bus drove the bus in a cautious manner. However, the driver of the auto drove the auto in a rash



C.M.A.(MD).No.312 of 2023

and negligent manner and in a drunken stage while overtaking the other vehicle in a wrong side, the accident had occurred.

3. Before the Tribunal, on the side of the petitioner, P.Ws.1 and 2 were examined and Exs.P1 to P8 were marked and on the side of the respondents, R.W.1 was examined and no document was filed.

4. Based on the evidence, the Tribunal has found that only the driver of the offending vehicle drove the vehicle in a rash and negligent manner and rejected the contention of the respondents and awarded a sum of Rs.4,01,326/- as compensation.

5. The only contention raised by the learned counsel for the appellant/Transport Corporation is that five passengers were travelling in the auto and that apart, the driver of the auto was in a drunken stage and he has no valid driving licence. Therefore, the liability has to be fixed on the driver of the auto.



C.M.A.(MD).No.312 of 2023

WEB COPY

6. In the light of the above submission, the point arise for consideration in this appeal is whether the Tribunal is right in fixing the liability on the driver of the bus.

7. On perusal of the evidence particularly, the eyewitness/injured himself and the F.I.R. filed against the driver of the bus, the Tribunal has rightly come to the conclusion that only the driver of the offending vehicle drove the vehicle in a rash and negligent manner and dashed against the auto. It is relevant to note that merely because overcrowd in the passenger auto same cannot be a ground to hold that the driver of the bus is not responsible for the accident. Therefore, unless the overcrowd in the passenger auto is a root cause for the accident, the contention of the respondents cannot be countenanced. Further, for the contention of the appellant that the driver of the auto has no valid driving licence and he has also drunken, no evidence whatsoever adduced before the Tribunal. Therefore, merely on the basis of the pleadings, this Court cannot come to the conclusion that only the driver of the auto is responsible for the accident.



C.M.A.(MD).No.312 of 2023

WEB COPY

8. In such a view of the matter, I do not find any merit in this appeal. The Tribunal has in fact considered the medical evidence and awarded a sum of Rs.4,01,326/- as compensation, which is reasonable. Therefore, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

19.04.2023

NCC:Yes/No
Index:Yes/No
Speaking/Non-speaking order

akv

To

The Motor Accident Claims Tribunal,
Sub Court,
Paramakudi.



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C.M.A.(MD).No.312 of 2023

N.SATHISHKUMAR, J.

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C.M.A.(MD)No.312 of 2023

19.04.2023