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Civil Miscellaneous Appeal No.1257 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1257 of 2024

and

C.M.P.No.11263 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam,
Thanjavur District - 612 001.
Tamil Nadu.

... Appellant

Vs.

1.R.Latha
W/o.Ranganathan

2.K.Srimathy
W/o.Kabilan

3.The Chief Manager,
Bajaj Allianz General Insurance Co. Ltd.,
Old No.276 and 277, New No.497 and 498,
Isana Kattima Building, 5th Floor,
Poonamallee High Road,
Chennai - 600 106.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award made in M.A.C.T.O.P.No.198 of 2021 on the file of Motor Accident Claims Tribunal, Additional Sub-Judge, Presiding Officer (FAC), Puducherry, dated 18.04.2023.



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For Appellant : Mr.C.Senapathi

For Respondents : Mr.R.V.Sivaraj [R3]

JUDGMENT

The transport corporation aggrieved by the award passed by the Motor Accident Claims Tribunal, Additional Sub-Judge, Presiding Officer (FAC), Puducherry, in M.A.C.T.O.P.No.198 of 2021, dated 18.04.2023, fixing the liability on the transport corporation, has filed the present appeal before this Court.

2. The first respondent/claimant filed the claim petition on the ground that he was travelling as a passenger in the bus belonging to the appellant transport corporation and the bus was proceeding at Cuddalore - Puducherry main road. At that time, the driver of the bus drove the bus in a rash and negligent manner and as a result, the bus dashed against a TATA Indica Car, which was coming in the opposite direction. Due to the impact arising out of the accident, the claimant who was a passenger in the bus sustained simple injuries and she did not suffer from any disability.

3. A First Information Report came to be registered against the



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driver of the appellant transport corporation in Crime No.213 of 2019 on the file of Puducherry Traffic Police Station (South) and it also ended in filing of final report on completion of investigation. For the injuries sustained by the claimant, she sought for payment of compensation by the appellant transport corporation.

4. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to the conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to the appellant transport corporation. Having rendered such a finding, the Tribunal fixed the compensation at Rs.40,000/- and the same was directed to be paid by the appellant transport corporation with interest at the rate of 7.5% p.a.

5. The appellant transport corporation, aggrieved by the award passed by the Tribunal, has filed this appeal.

6. Heard Mr.C.Senapathi, learned counsel for appellant transport corporation and Mr.R.V.Sivaraj, learned counsel for third respondent.



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7. This Court carefully considered the submissions made by learned counsel on either side and the materials available on record.

8. This Court also carefully went through the award passed by the Tribunal.

9. The main ground that was urged by learned counsel for appellant transport corporation is that it was a case of head on collision. Therefore, 50% contributory negligence must be attributed against the driver of the car. Learned counsel submitted that the Tribunal went wrong in fixing the entire liability on the appellant transport corporation, which requires the interference of this Court.

10. In the instant case, the Tribunal has taken into consideration the evidence of PW-1, who was the injured in this case. The Tribunal also had an opportunity of appreciating the evidence of RW-1, who is the driver of the bus and RW-2, who was the police officer, who investigated the case. The Tribunal also took into consideration the First Information Report that was marked as Ex.P1. On appreciation of these materials, the



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Tribunal came to a conclusion that the bus belonging to the transport corporation was driven in a rash and negligent manner resulting in the accident.

11. This Court does not find any ground to interfere with the finding rendered by the Tribunal insofar as negligence is concerned. The evidence of PW-1 has not been discredited and the evidence of RW-2 shows that the driver of the bus was made as an accused in this case and on completion of investigation, final report was also filed against him. Applying the test of preponderance of probability, the Tribunal found that negligence was on the part of the driver of the bus. In view of the same, this Court is not able to accept the submissions of learned counsel for appellant transport corporation to the effect that 50% contributory negligence must be attributed against the driver of the car. Such attribution of contributory negligence is not a matter of assumption and it has to be based on proper appreciation of evidence.

12. In any event, the Tribunal has fixed a meagre compensation in this case to the tune of Rs.40,000/-, which was directed to be paid with interest at 7.5% p.a. Therefore, this Court does not find any ground to interfere with the award passed by the Tribunal and accordingly, the same



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is hereby confirmed.
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In the result, this Civil Miscellaneous Appeal is dismissed. The appellant transport corporation is directed to deposit the compensation awarded by the Tribunal, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four (4) weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs. Consequently, connected miscellaneous petition is closed.

13.06.2024

Speaking Judgment/Non-speaking Judgment
Index : Yes/No
Neutral citation: Yes/No
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To

The Motor Accident Claims Tribunal,
Additional Sub-Judge,
Presiding Officer (FAC), Puducherry.



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N.ANAND VENKATESH, J

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