



Civil Miscellaneous Appeal No.1104 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1104 of 2024
and CMP No.10118 of 2024

The Managing Director,
Tamil Nadu State Transport
Corporation Limited
Tiruvannamalai Region
Tiruvannamalai.

... Appellant

Vs.

Elumalai

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.402 of 2015, dated 13.4.2022, on the file of Motor Accident Claims Tribunal, (in the Court of the Special Sub Court Tiruvannamalai).

For Appellant : Mr.C.R.Sureshkumar

For Respondent : Mrs.A.Subadra
for Mrs.M.Malar

JUDGMENT

The Transport Corporation, not being satisfied with the award passed by the Tribunal, has filed the present appeal against award dated 13.4.2022 made in

M.C.O.P.No.402 of 2015.

<https://www.mhc.tn.gov.in/judis>



2.The respondent, who is the claimant filed the claim petition on the ground that on 9.9.2015 at about 9.00 AM., he was walking on the left side of the road and at that point of time, the bus belonging to the Transport Corporation was driven in a rash and negligent manner and it dashed on the claimant and the claimant sustained fracture in his right forearm and right hand and also injuries on the other parts of the body. An FIR came to be registered in Crime No.276 of 2015, against the driver of the bus. It is under these circumstances, the claim petition was filed before the Tribunal seeking for payment of compensation.

3.The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a 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 Transport Corporation. Having rendered such a finding, the Tribunal fixed the total compensation at Rs.3,49,412/- under various heads as follows:

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Disability (20%)	80,000/-
2.	Pain and Sufferings	25,000/-
3.	Extra Nourishment	10,000/-
4.	Attender charges	10,000/-
5.	Medical Expenses	1,66,912/-
6.	Loss of Amenities	25,000/-
7.	Transport charges	10,000/-
8.	Loss of income during the treatment period	22,500/-
	Total	3,49,412/-



4.The above compensation was directed to be paid with interest at the rate of 7.5% p.a.

5.The Transport Corporation has filed the present appeal questioning the very liability on the ground that the accident had not taken place in the manner in which it was projected by the claimant.

6. Heard Mr.C.R.Sureshkumar, learned counsel for transport corporation and Mrs.A.Subadra, learned counsel for the respondent.

7.This Court has carefully considered the submissions made on either side and perused the materials available on record. This Court has also carefully gone through the award passed by the Tribunal.

8.The main ground that was urged by the learned counsel for the appellant was that the claimant was driving a two wheeler and he lost his balance and the two wheeler skidded and he fell down and sustained injuries. However, the claimant projected a case as if he was walking on the left side of the road and that the bus belonging to the Transport Corporation had hit the claimant.

9.To appreciate the above stand taken by the learned counsel for the appellant, this Court has to necessarily take into consideration the evidence of PW.1, RW.1 and RW.2 and also the documents that were marked as Ex.P.1 [FIR] , Ex.P.2



[Accident Register], Ex.P.3 [Discharge Summary], Ex.R.1 [Final Report].

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10.The claimant, who was examined as PW.1 has tendered evidence to the effect that he was walking on the road and he was hit by the bus as a result of which he had sustained injuries. This evidence of PW.1 has not really been discredited in the cross examination.

11.It will be relevant to take note of Ex.P.1 and Ex.P.2 at this juncture. Ex.P.2 is the Accident Register that was issued by the hospital where the claimant first underwent treatment on 09.09.2015. This is the earliest version that is available and the claimant has told the doctor that the accident had taken place when he was walking in the road and he was hit by a bus. This document is in line with the stand taken by PW.1 when he was examined as a witness.

12.The FIR came to be registered on the very next day i.e., on 10.9.2015. Even in the FIR, it has been mentioned that the claimant was walking in the road and he was hit by a bus and he sustained injuries.

13.The contra evidence that is available pertains to the evidence of RW.1. RW.1 is the police officer, who had investigated the case in Crime No.276 of 2015. Ex.R1, which is the closure report was marked through RW.1. The police officer has stated that on investigation, he came to know that the claimant was actually riding a two wheeler and he fell down from the two wheeler and sustained injuries. Hence,



it was concluded that the bus belonging to the Corporation was never involved in the accident. This evidence of RW.1 is in line with Ex.R.1.

14.In order to arrive at such a conclusion, the investigation officer has not even subjected the two wheeler for inspection by the motor vehicle inspector. If really, the claimant has fallen down from the two wheeler and sustained injuries, the fundamental step that ought to have been taken by the investigation officer was to have subjected the two wheeler for inspection and he must have obtained a report from the motor vehicle inspector. That material would have clinched the version given by the prosecution. In the cross examination RW.1 accepts that he never subjected the two wheeler for inspection. Therefore, the investigation officer has come to a conclusion based on some oral statement that was given and particularly by the driver of the bus.

15.The other evidence pertains to the deposition of RW.2 who was the driver of the bus. He also comes up with a version that he saw the claimant who had fallen from his two wheeler and he parked his vehicle and took the claimant to the hospital for treatment. If this version given by RW.2 is to be believed, there is absolutely no reason as to why the claimant would have stated before the doctor on the date of the accident that he was hit by the bus when he was walking in the road. That apart, there was no occasion for registering an FIR against the driver of the bus who was examined as RW.2, if his version is correct.



16.The scenario would have been different if there was substantial delay in giving the complaint and registering the FIR. In such an event, the Court can always take into consideration the chance of a deliberation and an after thought to give a complaint at a later point of time only for the purpose of claiming compensation. Hence, the version that was given by the claimant immediately after the accident, assumes a lot of significance.

17.The Tribunal on appreciation of the evidence has come to a conclusion that the accident had taken place only due to the driver of the bus belonging to the Transport Corporation. This finding of the Tribunal does not suffer from any illegality. It must be borne in mind that in a motor accident case, the standard of proof is only preponderance of probabilities unlike in a criminal case where the standard of proof is beyond reasonable doubts. Hence, the Court has to put itself in the shoes of a prudent man and assess the evidence to come to a conclusion. The Tribunal has properly done this exercise while fixing the negligence and this Court does not find any ground to interfere with such a finding rendered by the Tribunal.

18.Insofar as the quantum of compensation is concerned, this Court finds that the Tribunal has granted reasonable compensation under various heads which does not require the interference of this Court.

19.In the result, the award passed by the Tribunal in M.C.O.P.No.402 of 2015, on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai,



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dated 13.4.2022, is hereby confirmed and this civil miscellaneous appeal stands dismissed.

20.The appellant Transport Corporation is directed to deposit the compensation, less the amount already deposited, together with interest at the rate of 7.5% p.a., from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgement. 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.

20.06.2024

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

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To

Motor Accident Claims Tribunal,
Special Sub Court
Tiruvannamalai.



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N.ANAND VENKATESH, J.

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