



C.M.A.No.2862 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2862 of 2021 and C.M.P. No.16470 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation (Salem II) Ltd.,
No.12, Ramakrishna Road,
Regional Office Bharathipuram,
Dharmapuri-5.

... Appellant

Vs.

P.Samiappan

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree dated 09.08.2019 made in M.C.O.P. No.565 of 2010 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Krishnagiri.

For Appellant : Mr.D.Raghu

For Respondent : Mr.M.Selvam

JUDGMENT

This appeal has been filed by the Transport Corporation, questioning the ratio of contributory negligence fixed by the Tribunal under the impugned award.



2.Under the impugned award, the Tribunal had fixed the liability of the appellant and the respondent in the ratio of 50:50.

3.According to the appellant, there is no contributory negligence on the part of the driver and hence, the Tribunal ought not to have fixed the contributory negligence on his part at 50%. The respondent, who is the rider of the motorcycle, bearing registration No.TN24-B-6385, was coming from behind and dashed against the bus owned by the appellant/Transport Corporation. An F.I.R. was registered against the bus, owned by the appellant/Transport Corporation. Since the respondent had dashed against the bus from behind and based on the evidence available on record, the Tribunal has fixed the contributory negligence on both the driver of the bus, owned by the appellant/Transport Corporation and the respondent in the ratio of 50:50.

4.The Tribunal has held based on the evidence available on record that due to overload, the two wheeler bearing registration No.TN24-B-6385 was carrying three persons and the respondent also did not possess a valid driving license and was driving the motor cycle, without wearing helmet, has



fixed the contributory negligence on both the driver of the bus, owned by the appellant/Transport Corporation and the respondent in the ratio of 50:50.

Both the vehicles, viz., the bus, owned by the appellant/Transport Corporation as well as the two wheeler, which was driven by the respondent, were driving the respective vehicles in a rash and negligent manner as seen from the evidence available on record.

5. Even though the appellant has challenged the impugned award, questioning the contributory negligence fixed by the Tribunal, this Court, after giving due consideration to the evidence available on record, more particularly, the F.I.R., does not find any infirmity in the findings of the Tribunal. The Tribunal has also awarded a total compensation of Rs.2,92,191/- as detailed hereunder:

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>
Medical expenses	13,991.00
Loss of income	3,200.00
Transportation	5,000.00
Attender charges	5,000.00
Extra Nourishment	5,000.00
Damages to clothing	5,000.00
Pain and suffering	1,50,000.00
Partial Permanent disability	1,05,000.00
Total	2,92,191.00

6. The nature of injuries sustained by the respondent has not been



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disputed by the appellant/Transport Corporation. The respondent/claimant has sustained 35% disability due to the injuries sustained by him as a result of the accident. Only after giving due consideration to the nature of injuries sustained by the respondent/claimant and his disability, a total compensation of Rs.2,92,191/- has been determined by the Tribunal and out of which, the appellant/Transport Corporation was directed to pay the respondent a sum of Rs.1,46,095/-, being 50% amount as the Tribunal has fixed 50% contributory negligence on the part of the respondent.

7.The quantum of compensation awarded by the Tribunal is a just compensation and it does not call for any interference by this Court.

8.However, the Tribunal has erroneously awarded interest at the rate of 8% p.a. from the date of claim till the date of realization. It is settled practice to award interest only at 7.5% p.a. Therefore, this Court modifies the interest portion alone by directing the appellant/Transport Corporation to pay the award amount as determined by this Court together with interest at

7.5% p.a. from the date of claim till the date of realization instead of 8%



p.a., erroneously fixed by the Tribunal under the impugned award.

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9.In the result, there is no merit in this appeal. However, only to the extent of modifying the rate of interest from 8% p.a. to 7.5% p.a., the operative portion of the impugned award in all other respects is hereby confirmed and this appeal is dismissed. The appellant/Transport Corporation is directed to deposit the award amount, after deducting the amount already deposited, if any, together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit and cost to the credit of M.C.O.P. No.565 of 2010 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Krishnagiri, within a period of four weeks from the date of receipt of a copy of this judgment.

10.The respondent/claimant is permitted to withdraw the said amount, once it is deposited by the appellant/Transport Corporation, by filing an



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ABDUL QUDDHOSE. J.,

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appropriate application before the Tribunal. On such an application being made, the Tribunal shall transfer the amount lying to the credit of M.C.O.P. No.565 of 2010 to the bank account of the respondent/claimant directly through NEFT/RTGS, within a period of one week thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

12.07.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

1.The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate Court,
Krishnagiri.

2.The Section officer,
Record Section,
High Court of Madras.

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