



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1115 of 2024
and CMP No.10158 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Bharathipuram, Dharmapuri – 5.

..Appellant

.vs.

Kumar @ Ganesh Kumar

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and Decree passed in MCOP No.2698 of 2014 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri on 05.01.2022.

For Appellants : Mr.D.Nitin

JUDGMENT

The Transport Corporation has filed the present appeal challenging the Award passed by the Motor Accident Claims Tribunal, Dharmapuri in MCOP No.2698 of 2014, dated 05.01.2022.

2.The respondent/claimant filed the claim petition on the ground that on

01.02.2014, he was travelling in the bus belonging to the Transport Corporation



from Salem to Omalnatham and when the bus came near Seshampatti Junction Road at about 21.30 hours, the Conductor of the bus informed that those who want to get down at Nallampalli can come near the foot board and get ready to get down from the bus. The driver of the bus drove the bus in a rash and negligent manner and as a result, there was a jolt when the bus ran over the speed breaker. The claimant lost his balance and he fell down and sustained fracture Mid 1/3rd distal 1/3rd junction left tibia fracture in left leg, left inferior and superior pubic rami fracture in pelvis left vertical iliac bone fracture in pelvis. The claimant took treatment as an inpatient for nearly 30 days. An FIR also came to be registered against the driver of the bus in Crime No.52 of 2014. It is under these circumstances, the claim petition came to be 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 negligence on the part of the driver of the offending vehicle. Having reached such a conclusion, the Tribunal fixed the total compensation at Rs.6,85,000/- under various heads as follows:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	1,00,000
2.	Loss of Income	24,000
3.	Medical Bills	4,97,000
4.	Transport to hospital	20,000
5.	Extra Nourishment	10,000
6.	Pain and sufferings	34,000
	Total	6,85,000

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

5.The Transport Corporation questioning their liability as well as the quantum of compensation fixed by the Tribunal, has filed the present appeal before this Court.

6.Heard Mr.D.Nitin, learned counsel appearing on behalf of the appellant.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.

8.The learned counsel for the appellant submitted that the incident did not take place in the manner in which it was attempted to be projected by the claimant who



was examined as PW1 and that the claimant did not even travel in the offending vehicle.

9.To appreciate the ground that has been raised by the learned counsel for the appellant, it is necessary to go through the evidence of PW1 and RW1. PW1 is the claimant and RW1 was the driver of the bus who was examined on the side of the Transport Corporation.

10.PW1 has categorically stated that the Conductor had informed the passengers that those who want to get down at Nallampally can come near the foot board and get ready to get down from the bus. He further states that the bus was driven in a rash and negligent manner and the bus ran over a speed breaker and as a result, the claimant lost balance and fell down from the bus and sustained injuries. In the cross-examination, the stand taken by the claimant has not been discredited. On the one hand, the question has been asked to the effect that the claimant never travelled in that bus which was denied by the claimant. On the other hand, yet another question was asked to the effect that the claimant did not properly hold the rod and therefore, he fell down from the bus. The Tribunal has considered the evidence of PW1 and also the FIR that was registered as Ex.P1 and Wound Certificate that was marked as Ex.P2. It was mentioned in these documents that the claimant had sustained injuries after he fell down from the moving bus.



11.The other evidence is with regard to the driver of the bus who was examined as RW1. The driver of the bus in the cross-examination has admitted he only drove the bus at the time of the accident. He was also admitted that the FIR was registered and ultimately, a final report was also filed against the driver and the case was pending before the learned Judicial Magistrate-II, Dharmapuri.

12.The appreciation of evidence in a motor accident case is based on the test of preponderance of probability. There is no contra evidence available to show that the claimant did not fall from the bus and the finding of the Tribunal to the effect that the accident had taken place only due to the rash and negligent driving on the part of the bus driver, does not warrant the interference of this Court.

13.Insofar as the quantum of compensation is concerned, this Court finds that the Tribunal had fixed a reasonable compensation under various heads and it does not require the interference of this Court.

14.In the light of the above discussion, this civil miscellaneous petition stands dismissed. The appellant Transport Corporation is directed to deposit the compensation, less the amount already deposited, together with interest at 7.5% p.a.



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N. ANAND VENKATESH., J

SSR

from the date of claim petition till the date of deposit within a period of six 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.

26.06.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
SSR

To

The Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri.

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