



WEB COPY



C.M.A.No.2919 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.2919 of 2021 and
C.M.P. No.16712 of 2021

The Managing Director,
Tamilnadu State Transport Corporation,
Kumbakonam Taluk & Town,
Kumbakonam District.

.. Appellant

Vs.

Ezhilan

.. Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 01.04.2021 made in M.C.O.P. No.114 of 2017 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Nagapattinam.

For Appellant : Mr.M.Murali Vinodh,
Standing Counsel for TNSTC

For respondent : No appearance

JUDGMENT

This appeal has been filed by the Transport Corporation, challenging the impugned award on the ground that their bus was not involved in the accident for which the respondent had made a



C.M.A.No.2919 of 2021

compensation claim before the Tribunal.

WEB COPY

2.Before the Tribunal, the appellant/Transport Corporation has contended as seen from their counter that their bus was not involved in the accident for which the compensation claim has been made by the respondent/claimant. They had also contended that the F.I.R., which was marked as an Ex.A1, does not disclose the registration number of the bus and therefore, the appellant/Transport Corporation is not liable to pay the compensation claim.

3.Learned counsel for the appellant drew the attention of this Court to the F.I.R., which was marked as Ex.A1 before the Tribunal. As seen from the said F.I.R., the registration number of the bus is not disclosed.

4.The appellant has disputed the claim of the respondent that their bus was involved in the accident which caused injuries to the respondent/claimant. In the impugned award, there is no discussion with regard to the F.I.R. (Ex.A.1), wherein there is no mention about the registration number of the bus, alleged to have been owned by the appellant/Transport Corporation. Instead the Tribunal has shifted the burden on the



C.M.A.No.2919 of 2021

appellant/Transport Corporation to produce the records to prove that their bus was not involved in the accident, which resulted in the injuries sustained by the respondent/claimant. When the F.I.R. does not reveal the registration number of the bus, the respondent/claimant ought to have substantiated with further evidence that the bus owned by the appellant Transport Corporation was infact involved in the accident, which resulted in causing injuries to him. There is also no discussion in the impugned award with regard to the contentions of the appellant/ Transport Corporation.

5.The respondent has been duly served in this appeal and his name has also been printed in the cause list today. Till date, no one has entered appearance on behalf of the respondent.

6.This Court, after giving due consideration to the fact that the F.I.R./Ex.A.1 does not reveal the registration number of the bus and the Tribunal has also not considered the contentions of the appellant that their bus was not involved in the accident, as seen from the F.I.R., the impugned award has to be set aside and the matter has to be remanded to the Tribunal for fresh consideration, based on merits and in accordance



C.M.A.No.2919 of 2021

with law. Without giving due consideration to the contentions of the appellant that the F.I.R. does not reveal the registration number of the bus owned by the appellant/Transport Corporation, which was involved in the accident, the Tribunal has passed the impugned award against the appellant/Transport Corporation by shifting the burden of proof on the appellant/Transport Corporation. According to the Tribunal, the appellant/Transport Corporation has to prove through oral and documentary evidence that their bus was not involved in the accident, which has caused injuries to the respondent/claimant.

7.For the foregoing reasons, the impugned award dated 01.04.2021 passed in M.C.O.P. No.114 of 2017 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Nagapattinam is hereby set aside and the matter is remanded back to the very same Tribunal for fresh consideration, on merits and in accordance with law. The Tribunal is directed to pass an award, preferably within a period of six months from the date of receipt of a copy of this order.

8.With the above direction, this appeal stands disposed of. Consequently, connected C.M.P. stands closed. No costs.



WEB COPY



C.M.A.No.2919 of 2021

12.04.2024

vga

To

1. The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court, Nagapattinam.
2. The Section Officer,
V.R. Section,
High Court, Madras.



WEB COPY



C.M.A.No.2919 of 2021

ABDUL QUDDHOSE, J.

vga

C.M.A. No.2919 of 2021 and
C.M.P. No.16712 of 2021

12.04.2024