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C.M.A.No.638 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2024

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No.638 of 2024

and

C.M.P.No.6049 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram Division 1) Ltd.,
No.3/137, Salamedu,
Vazhuthareddy Post,
Villupuram 605 401.

...Appellant

Vs

1.Parasuraman

Silambarasan (deceased)

2.IFFCO TOKIO General Insurance Co.Ltd.,
No.28, North Usman Road,
T.Nagar, Chennai 600 017.

3.Kasinathan

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment made in MCOP.No.187 of 2021 dated 25.01.2023 on the file of the Motor Accident Claims Tribunal (Special



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District Court), Villupuram and allow this appeal.

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For Appellant : Mr.T.Chandrasekaran

For Respondent : Mr.J.Micheal Visuvasam for R2

JUDGMENT

This civil miscellaneous appeal has been filed challenging the judgment and decree dated 25.01.2023 in MCOP.No. 187 of 2021.

2. The learned counsel for the claimant would submit that on 05.01.2016, while the claimant was riding as a pillion rider in a two-wheeler bearing Registration No.TN-15-8649 at Panruti-Cuddalore Road, a bus bearing Registration No.TN-32-N-3240 came in a rash and negligent manner and dashed against him, due to which, he had sustained grievous injuries and the rider of the two-wheeler had died on the spot. Considering all the aspects, the Tribunal had awarded the compensation in the following manner:

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Pain and Sufferings	50,000



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<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
2	Extra Nourishment	10,000
3	Loss of Amenities	10,000
4	Transportation	10,000
	Total	80,000

3. By referring the FIR, the learned counsel for the appellant would submit that this accident was occurred purely due to the rash and negligence on the part of the rider of the two-wheeler. However, without appreciating the said aspect, the Tribunal had fastened the entire liability against the driver of the bus. Hence, he requests this Court to re-consider the aspect of fixation of negligence and fastening of liability against the rider of the two-wheeler.

4. Mr.J.Micheal Visuvasam, learned counsel takes notice on behalf of the 2nd respondent and would submit that after considering the oral and documentary evidences, the Tribunal had rightly fixed the negligence and fastened the liability. Hence, he requests this Court to confirm the same.

5. Heard the learned counsel for the appellant and the respondent and perused the materials available on record.



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6. Upon perusal of the records, it appears that the claimant/injured pillion rider was examined before the Tribunal as PW1. However, the driver of the bus, who gave complaint, was not examined as witness before the Tribunal. Further, it appears that nothing has been culled out by the appellant from the deposition of PW1 in order to prove their contention. Under these circumstances only, the Tribunal came to the conclusion that the accident was occurred only due to the rash and negligence of the driver of the bus. In such case, this Court does not find any illegality in the award passed by the Tribunal. Therefore, since there is no merit in the submission made by the learned counsel for the appellant, this Court is inclined to dismiss the present appeal.

7. In the result, this Civil Miscellaneous Appeal is dismissed and the appellant is directed to deposit the amount awarded by the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.187 of 2021 on the file of the Motor Accidents Claims Tribunal,



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Special District Court, Villupuram. Upon such deposit, the Tribunal is directed to transfer the award amount to the bank account of the claimant, by way of RTGS, within a period of three weeks from the date of deposit and receipt of the Bank details obtained from the claimant. No costs. Consequently, the connected miscellaneous petition is also closed.

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Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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KRISHNAN RAMASAMY,J.

nsa

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