



C.M.A.No.385 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.385 of 2023

and

C.M.P.No.3226 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam Limited,
Railway Station New Road,
Kumbakonam 612 001.

... Appellant

Vs.

A.Sasikumar

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 to set aside the Decree and Judgment dated 15.12.2020 made in M.C.O.P.No.5323 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Judge-2, Small Causes Court, Chennai.

For Appellant : Mr.M.Murali Vinodh
C/V filed

For Respondent : Notice not ready



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injured.

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4. The learned counsel for the appellant submitted that, based on the evidence of eye witness, viz., PW1 and RW1, the Tribunal came to the conclusion that due to the rash and negligent driving of the bus bearing Reg.No.TN 68 N 0541, was the main cause for the accident and accordingly, fastened 80% liability on the part of appellant/Transport Corporation. However, fastened 20% liability on the part of the rider of the two wheeler, for the reasons, viz., that the injured was not wearing helmet; not having valid driving licence at the time of accident and also the rider of the two wheeler drove the vehicle along with two pillion riders. Therefore, the learned counsel contended that the findings rendered by the Tribunal in fixing 80% contributory negligence on the part of the driver of the bus, is on the higher side. Hence, he seeks appropriate modification in favour of the appellant.

5. Heard the learned counsel for the appellant and perused the material available on records.



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6. On perusal of the records and after analysing evidence of eye witness PW1 and RW1 and on considering the fact that the FIR was registered against the driver of the appellant bus, the Tribunal has come to a conclusion that the main cause for the accident is only due to rash and negligent driving of the appellant/bus bearing Reg.No.TN 68 N 0541. Therefore, the Tribunal has rightly fixed 80% contributory negligence on the part of the driver of the appellant bus and 20% against the injured for mere reasons that the rider of the two wheeler drove the vehicle along with two pillion riders without wearing helmet and without having valid licence. This Court, time and again, has consistently taken a view, that when the accident is occurred only due to rash and negligent driving on the part of the driver of the bus and in such case, no contributory negligence could be fastened against the injured for merely not wearing the helmet and not having valid driving licence, unless and otherwise, the rider of the two wheeler directly contributed to the cause for the accident by his rash and and negligent driving. Since no appeal has been preferred by the claimant, this Court is constrained to confirm the award passed by the Tribunal. However, the claimant is at liberty to agitate his grievance as regards the contributory negligence fixed on his part in accordance in



7. Accordingly, the Civil appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant/Transport Corporation is directed to deposit the said amount along with interest and cost, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.5323 of 2016 on the file of Special Sub Judge-2, Small Causes Court, Chennai. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the bank account of the appellants, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the appellants or application for withdrawal from the claimant, whichever is later.

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Index : Yes / No
NCC : Yes / No
jd

Note: Issue order copy on 29.04.2024.



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Krishnan Ramasamy,J.,

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To

1. The Motor Accident Claims Tribunal,
Special Sub Judge 2, Small Causes Court,
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.

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