



Civil Miscellaneous Appeal No.3086 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.3086 of 2024

and

C.M.P.No.25443 of 2024

The Branch Manager,
Tamil Nadu State Transport Corporation/Regional Office,
Dharmapuri. ... Appellant

Vs.

Selvam ... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 17.06.2022 made in M.C.O.P.No.32 of 2018 on the file of Motor Accident Claims Tribunal, Subordinate Court, Harur.

For Appellant : Mr.D.Nitin

For Respondent : Mr.J.Pradeep



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J U D G M E N T

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The appellant/Tamil Nadu State Transport Corporation, aggrieved by the quantum of compensation awarded and the negligence fixed against them by the Motor Accident Claims Tribunal, Subordinate Court, Harur, in M.C.O.P.No.32 of 2018, dated 17.06.2022, has filed this appeal.

2. The respondent is the claimant. The case of the claimant is that on 19.02.2017, when the petitioner was proceeding towards Keeraipatti in his two wheeler, the respondent's bus proceeding from Keeraipatti to Harur, without following the road rules and blowing the horn, turned on the left side of the road and dashed against the petitioner. Due to the accident, the petitioner sustained injuries on the right side leg and right hand ankle and head. It is under these circumstances, the respondent/claimant has filed the claim petition before the Tribunal seeking for compensation.

3. The Tribunal, on considering the facts and circumstances of the



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case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the respondent town bus. Having rendered such a finding, the Tribunal proceeded to determine the compensation payable at Rs.6,23,825.50/- in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	2,00,000/-
2.	Medical Bills	3,83,825.50/-
3.	Pain and Sufferings	20,000/-
4.	Transportation expenses	10,000/-
5.	Extra Nourishment	10,000/-
	Total	6,23,825.50/-

The Tribunal directed the above compensation to be paid by the appellant with interest at the rate of 7.5% p.a.

4. Questioning the negligence and the quantum of compensation awarded by the Tribunal, the appellant Transport Corporation has filed the present appeal.

5. Heard Mr.D.Nitin, learned counsel for appellant Transport



Corporation and Mr.J.Pradeep, learned counsel for respondent/claimant.

6. This Court carefully considered the submissions made on either side and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.

8. Learned counsel for appellant Transport Corporation submitted that immediately after the accident, the complaint was lodged by the driver of the bus and not by the respondent/claimant and it was marked as P.W.1 and FIR being a documentary evidence will prevail over the oral evidence of P.W.1 and P.W.2 and during the time of accident, the injured was not holding the valid licence. Learned counsel further submitted that the award passed under the other heads also is on the higher side.

9. *Per contra*, learned counsel for the respondent/claimant



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submitted that in order to prove the negligence and the quantum of compensation, the respondent/claimant himself examined as P.W.2 and examined one Rathakrishnan, as P.W.2, who was an eye-witness to the accident and he clearly deposed the manner in which the accident happened and in order to disprove the case of the claimant, no independent witness was examined by the appellant before the Tribunal. Further, the driver of the appellant Transport Corporation was not examined before the Tribunal and thereby, the Tribunal fastened the liability against the appellant Transport Corporation and it does not require the interference of this Court. Submitting as above, learned counsel sought for dismissal of this appeal.

10. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent.

11. The involvement of the bus belonging to the Appellant Transport Corporation in the accident is not in dispute. In order to prove the case of the claimant, the claimant examined one Rathakrishnan, who was the eye-witness to the accident and deposed before the Tribunal relating to the manner in which the accident happened. The evidence of



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P.W.2 is corroborating with the statement of P.W.1. Though FIR was registered against the petitioner by the driver of the bus, it is not a conclusive proof and unless the FIR is proved by examining independent witnesses, the liability fastened against the appellant Transport Corporation cannot be interfered with. Moreover, with regard to the quantum of compensation, the Medical Board assessed the disability as 40% and the Tribunal, taking into consideration of the judgment of this Court in the case of *M.Chinnathambi vs. S.Deepa National Insurance* reported in *2020 TNMIC (617)*, has fixed Rs.5,000/- per percentage of disability and awarded a sum of Rs.2,00,000/- (Rs.5,000/- X 40) and the Medical Bill marked vide Ex.P3 was not disputed by the appellant and therefore, the Tribunal awarded a sum of Rs.3,83,825/- and the other heads awarded by the Tribunal are also very reasonable, which need not any interference from this Court.

12. Accordingly, this Civil Miscellaneous Appeal is dismissed. The appellant/Insurance Company is directed to deposit the compensation awarded by the Tribunal, less the amount if any already deposited, together with interest at 7.5% p.a. from the date of claim petition till the



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date of deposit within a period of four 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 remain unaltered. No costs. Consequently, connected miscellaneous petition is closed.

28.11.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

ssb

To

1. The Motor Accident Claims Tribunal,
Subordinate Court, Harur.

2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

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