



Civil Miscellaneous Appeal No.1546 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1546 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation
Kumbakonam Limited,
Pudhukottai.

... Appellant

Vs.

1.Jayalakshmi
W/o.Thirusangu

2.Pandarinathan
S/o.Veerappa Padayachi

3.United India Insurance Company Ltd.,
Villupuram.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 31.03.2023 made in M.C.O.P.No.301 of 2018 on the file of Motor Accident Claims Tribunal, Special Subordinate Judge II, Villupuram.

For Appellant : Mr.M.Murali Vinodh

For Respondents : Mr.P.Sankaranarayanan [R3]



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JUDGMENT

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The appellant transport corporation, questioning the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special Subordinate Judge II, Villupuram, in M.C.O.P.No.301 of 2018, dated 31.03.2023, has filed this appeal.

2. The first respondent/claimant was travelling in a TATA Ace vehicle belonging to second respondent along with others and at about 09.30 a.m., when the vehicle reached the Pali Reserve Police Battalion Quarters, the bus belonging to the appellant transport corporation was driven in a rash and negligent manner and it tried to overtake the TATA Ace van and in that process, it had hit the TATA Ace van, due to that impact, the TATA Ace van fell into a nearby pit. Many were injured in this accident. Insofar as the claimant is concerned, she sustained fracture in the right ulna and fracture in the nasal bone. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.



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3. The appellant transport corporation took a stand that the accident had taken place only due to the rash and negligent driving on the part of the TATA Ace vehicle. It was further contended that the First Information Report was registered as against the driver of the TATA Ace van for his negligence and therefore, the appellant transport corporation cannot be made liable to pay any compensation in this case.

4. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that there was complete mismatch between the stand taken in the counter affidavit filed by the appellant transport corporation and the evidence tendered by RW-1 as against the stand that was taken in the first information report regarding the accident. The Tribunal found that there was two meters scratch on the left side of the bus and due to the rash and negligent driving of the bus and the bus coming in contact with the van, the TATA Ace van had fallen into a pit and therefore, it was concluded that the accident had taken place only due to the rash and negligent driving on the part of the driver of the appellant transport corporation.



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5. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.2,23,500/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	70,000/-
2.	Pain and suffering	50,000/-
3.	Loss of amenities	50,000/-
4.	Loss of income	22,500/-
5.	Extra nourishment	10,000/-
6.	Transportation charges	10,000/-
7.	Attendant charges	10,000/-
8.	Damage to clothes	1,000/-
	Total	2,23,500/-

The above compensation was directed to be paid along with interest at 7.5% p.a.

6. The appellant transport corporation, aggrieved by fastening of liability against them and the quantum of compensation fixed by the Tribunal, has filed the present appeal before this Court.

7. Heard Mr.M.Murali Vinodh, learned counsel for appellant/claimant and Mr.P.Sankaranarayanan, learned counsel for third respondent.



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

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

10. It is true that the First Information Report was registered as against the driver of the TATA Ace van. This First Information Report was registered based on the complaint given by the driver of the bus belonging to the appellant transport corporation. In the complaint, the appellant transport corporation took a stand that the TATA Ace van was driven in a rash and negligent manner and it had hit the left corner of the bus and it fell into the pit. However, in the counter affidavit as well as in the evidence of RW-1, a stand was taken to the effect that the bus was overtaking the TATA Ace van and at that point, the driver of the TATA Ace van had driven the vehicle in a rash and negligent manner in order to avoid hitting the bus and as a result, it came in contact with the bus and fell into the pit due to its impact.



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11. The Tribunal, on appreciation of evidence, came to the conclusion that the appellant transport corporation has come up with two different versions regarding the manner in which the accident had taken place. The Tribunal also took into consideration the report of the Motor Vehicle Inspector wherein it was mentioned that there was two meters scratch on the left side of the bus. That apart, the Tribunal also found that the investigation officer, who investigated the case in Crime No.270 of 2017 was not examined. Hence, considering the evidence of PW-1, the Tribunal 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 bus belonging to the appellant transport corporation. The finding rendered by the Tribunal does not suffer from any illegality warranting interference.

12. Insofar as the quantum of compensation is concerned, the Tribunal has granted reasonable compensation in this case and it does not require the interference of this Court.

13. The appellant transport corporation is directed to deposit the compensation awarded by this Court, less the amount already deposited,



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together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six (6) 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.

In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

10.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
Special Subordinate Judge II,
Villupuram.



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N.ANAND VENKATESH, J.

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