



CMA No.4173 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CMA No.4173 of 2019

and CMP No.23572 of 2019

The Managing Director,
Andhra Pradesh State Road Transport Corporation,
A.P.S.R.T.C.Bus Station Complex,
Hyderabad, Andhra Pradesh.

... Appellant

Vs.

Munilakshmi

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 14.09.2016 made in MCOP No.3612 of 2013 on the file of the Special Sub Judge (MACT) Krishnagiri.

For Appellant : M/s.G.V.Shoba
For Respondent : Notice returned

JUDGMENT

The Transport Corporation have filed the appeal against the judgment and decree dated 14.09.2016 made in MCOP No.3612 of 2013 on the file of Special Sub Judge (MACT) Krishnagiri questioning the



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negligence attributed against the driver of the bus and the quantum of compensation.

2. The case of the claimant is that on 12.05.2013 at about 01.30 pm, the bus was stopped at Kalanur cross bus stop in Kuppan to Barugur Road, for alighting passengers. After some passengers got down from the bus, when the claimant was getting down from the rear foot board of the bus, the driver of the bus started the bus and moved it rashly and negligently. The claimant who was half way out of the rear foot board fell down from the bus and sustained grievous injuries. Immediately, she was taken to the Government Area Hospital, Kuppan and given first aid. As her condition was serious, she was taken to P.E.S.Medical College Hospital, Kuppan and admitted as inpatient for three days. Thereafter, she was taking continuous treatment privately at Krishnagiri, Kuppan and Bangalore. The Kuppan Police have registered a case against the driver of the A.P.S.R.T.C. bus in Cr.No.58/2018 u/s 377 of I.P.C. It is under these circumstances, the claim petition came to be filed by the claimant who are seeking for payment of compensation to the tune of Rs.7,00,000/-.



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3. The Tribunal on considering the facts and circumstances of the 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 bus belonging to the appellant/Transport Corporation and awarded a sum of Rs.3,14,000/- towards compensation for the injured claimant under various heads and directed the appellant/Transport Corporation to pay the compensation to the claimant. Aggrieved by the same, the appellant/ Transport Corporation has filed the present appeal questioning its negligence and the quantum of compensation.

4. The learned counsel for the appellant/Transport Corporation submitted that the Trial Court has failed to note the evidence of RW1 which clearly proves the negligent act of the claimant. Further, in the absence of rebuttal evidence let in by the claimant, the trial Court erred in apportioning the negligence against the driver of the bus. The learned Trial Court judge has failed to note that PW2/Doctor who has not treated the claimant and the Trial Court ought to have referred the case to the Medical Board. However, without referring the matter to the Medical



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Board, the Trial Court erroneously considered the disability of the claimant at 45% and granted a sum of Rs.1,35,000/- towards the head 'Permanent Disability' and the amount awarded under the other heads are also on the higher side, the same warrant interference by this Court. On the other hand, the claimant has invited the accident due to her negligent act. Ignoring these facts, the Tribunal, has fastened the negligence as against the driver of the bus, which is not sustainable.

5. Though the appeal has been filed in the year 2019, the appellant has not taken any steps to serve the respondent. Notice sent through Court was returned with an endorsement 'addressee cannot be located return to the sender.

6. Heard the learned counsel for appellant/ Transport Corporation and this Court carefully considered the materials available on record.

7. Admittedly, the claimant was examined as PW1 and she stated in her evidence that while alighting passengers, some passengers got down



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from the bus. When the claimant was getting out to the rear foot board of the bus, the driver of the bus started the bus and moved it rashly and negligently and that, the accident had occurred only due to the rash and negligent act of the driver of the said bus. It is pertinent to note that Ex.P1/FIR was registered as against the driver of the bus and the RW1/driver of the bus has not deposed that the conductor gave a whistle, signaling the driver to start the bus. It is the duty of the driver and the conductor of the bus to ensure that the passengers have all alighted at the bus stop before proceeding to start the bus. Moreover, it is true that there was no clinching evidence beyond reasonable doubt to establish that the accident had taken place in the manner in which the driver of the bus had projected it. The driver will always give the version which is advantageous to him. The claimants on the other hand will give a version which is advantageous to them. That is the reason why, the Tribunal was insisting for an independent witness. In view of the same, the decision that was arrived at by the Tribunal cannot be held to be perverse. Consequently, the finding of the Tribunal by fixing the negligence against the driver of the bus is hereby confirmed. Hence, the trial Court has rightly fixed the negligence as against the driver of the bus and



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fastened the liability on the part of the appellant/Transport Corporation, which need no interference by this Court.

8. As far as quantum of compensation is concerned, the claimant sustained 45% disability and no evidence was adduced by the appellant/Transport Corporation to disprove the same. The amount awarded under the others heads are also just and reasonable and the same is in order. However, the Trial Court fixed interest at the rate of 9% from the date of petition till the date of realisation. This Court is inclined to reduce the interest at the rate of 7.5% p.a.,.

9. In the result, the civil miscellaneous appeal is partly allowed with the above terms. The appellant/Transport Corporation is directed to pay the compensation to the tune of Rs.3,14,000/-(Rupees three lakh fourteen thousand only) as awarded by the Tribunal, less the amount, if any, already deposited, together with interest at the rate of 7.5% p.a., from the date of petition till the date of realisation, 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



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compensation remains unaltered. No costs. Consequently, connected miscellaneous petition is closed.

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msv

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

To

Special Sub Judge (MACT) Krishnagiri.



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