



C.M.A.(MD) No.1085 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2024

CORAM

**THE HON'BLE MR.JUSTICE SUNDER MOHAN**

**C.M.A.(MD) No.1085 of 2013**

The Managing Director,  
Tamil Nadu State Transport Corporation,  
Bye-Pass Road, Palanganatham,  
Madurai.

... Appellant

Vs.

Subramanian

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 04.07.2006 passed in M.C.O.P.No.456 of 2000 on the file of the Motor Accidents Claims Tribunal, Additional District & Sessions Judge-cum-CJM/Fast Track Court, Dindigul.

For Appellant : Mr.M.Prakash

For Respondent : No appearance

### **J U D G M E N T**

The appellant has filed the instant appeal challenging the award on the finding of negligence and quantum of compensation awarded by the



C.M.A.(MD) No.1085 of 2013

Tribunal to the respondent herein.

WEB COPY

2. The respondent herein filed a claim petition stating that on 24.10.1997 at about 1.45 p.m., while he was driving his lorry, a bus belonging to the appellant/Transport Corporation came in the opposite direction in a rash and negligent manner, causing a head-on collision, as a result of which, he sustained serious injuries.

3. The appellant/Transport Corporation filed a counter denying the averments in the claim petition, stating that the accident took place only due to the negligence of the respondent herein and that in any case, the compensation awarded by the Tribunal was excessive.

4. Before the Tribunal, the respondent herein examined himself as P.W.1 and two more witnesses, namely, K.Senthil Arumugam and Dr.Vijayakumaran, as P.W.2 and P.W.3 and marked Exs.P1 to P4. The appellant examined R.W.1-the employee of the Corporation.

5. The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place only due to the



C.M.A.(MD) No.1085 of 2013

negligence of the driver of the bus and directed the appellant/Transport Corporation to pay compensation of Rs.1,67,500/-.

6. The learned counsel for the appellant/Transport Corporation submitted that the finding of the Tribunal on negligence is contrary to the evidence on record and that the R.W.1/employee of the Corporation had deposed that the accident took place only due to the negligence of the respondent herein and that the compensation awarded by the Tribunal at Rs.1,67,500/- is excessive.

7. Though notice was sent to the respondent herein, the same could not be served. Hence the paper publication was ordered and since the appellant had produced proof of paper publication, the name of the respondent is printed in the cause list. However, none has entered appearance.

8. This Court has carefully considered the submissions made by the appellant and perused the materials on record.

9. The questions involved in the instant appeal are as follows:



C.M.A.(MD) No.1085 of 2013

*‘a. Whether the Tribunal was right in fixing the negligence on the driver of the appellant/Transport Corporation.*

*b. Whether the compensation awarded by the Tribunal is just and reasonable?’*

10. As regards the first question, it is seen that the respondent herein had examined himself as P.W.1 to prove the manner of accident and Ex.P1/First Information Report also corroborates his version. It is seen that the appellant/Transport Corporation had not examined its driver to disprove the evidence let in on the side of the claimant/respondent herein. The appellant examined R.W.1/employee of the Corporation to depose that the bus did not belong to the Corporation. However, the appellant has not let in any independent evidence to corroborate the evidence of R.W1, which does not inspire confidence. The evidence of P.W.1 and the averments in Ex.P1/First Information Report establishes that the bus belonging to the appellant was involved in the accident and the accident took place due to the rash and negligent driving of its bus driver. The point No.1 is answered accordingly.

11.As regards the quantum of compensation, it is seen that the respondent herein had marked Ex.P4/Disability Certificate and examined



C.M.A.(MD) No.1085 of 2013

the Doctor as P.W.3 to prove the nature of injuries and that the disability suffered by him. The respondent herein was aged 32 years at the time of accident. The disability assessed by the Doctor is 25%. Hence, the Tribunal had awarded Rs.1,27,500/- towards disability by adopting the multiplier method, considering the nature of the injuries and the disability suffered by the respondent herein. The Tribunal had also awarded Rs.15,000/- under the head of loss of income, Rs.5,000/- towards transport expenses and Rs.10,000/- towards extra nourishment, which cannot be faulted. The award of the Tribunal is just and reasonable and hence, no interference is called for. Hence, the appeal is dismissed and the compensation awarded by the Tribunal is confirmed.

12. The appellant Transport Corporation is directed to deposit Rs.1,67,500/- (Rupees One Lakh Sixty Seven Thousand and Five Hundred only) together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and costs, less the amount already deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this order.



C.M.A.(MD) No.1085 of 2013

13. On such deposit, the respondent/claimant is entitled to withdraw the aforesaid amount together with proportionate interest and costs, less the amount already withdrawn, if any, by filing an appropriate application before the Tribunal. The respondent/claimant is directed to pay the necessary Court Fee, if any, on the enhanced amount.

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

**21.08.2024**

Index: Yes/ No  
NCC: Yes / No  
Speaking Order / Non-Speaking Order  
apd

To:  
1. Motor Accidents Claims Tribunal,  
Additional District & Sessions Judge-cum-CJM/Fast Track Court,  
Dindigul.

2. The Record Keeper,  
V.R. Section,  
Madurai Bench of Madras High Court,  
Madurai.



WEB COPY



C.M.A.(MD) No.1085 of 2013

**SUNDER MOHAN, J.**

apd

**C.M.A.(MD) No.1085 of 2013**

**21.08.2024**