



C.M.A.(MD) No.1341 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.1341 of 2013

and

M.P.(MD)No.1 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation,
Division – 1,
Kumbakonam.

... Appellant

Vs.

Jesuraj.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 18.08.2007 passed in M.C.O.P.No.23 of 2006, on the file of the Motor Accidents Claims Tribunal, Sub Court, Kulithalai.

For Appellant : Mr.M.Prakash

For Respondent : Dispensed with



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JUDGMENT

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The above appeal has been filed by the Transport Corporation, challenging the finding on negligence and the quantum of compensation awarded by the Tribunal.

2. The respondent had filed a claim petition stating that while he was travelling in a bus belonging to the appellant transport corporation, the driver of the bus dashed against the central median wall in a rash and negligent manner, as a result of which he was thrown away from the bus and sustained grievous injuries.

3. The appellant filed a counter, stating that the driver had applied the brake suddenly to avoid a collision with another two wheeler, which was ridden in a rash and negligent manner; that inadvertently, it dashed against the wall of the central median and hence, there was no negligence on the part of the driver; and that they were not liable to pay compensation.

4. Before the Tribunal, the respondent examined himself as P.W.1



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and a doctor as P.W.2 and marked Exs.P1 to P7. The appellant examined

R.W.1 and did not mark any documents.

5. The learned counsel for the appellant/Transport Corporation submitted that the finding on negligence is contrary to the evidence of R.W.1, who is the driver of the vehicle; that the evidence of the claimant ought to have been rejected by the Tribunal; and that the compensation awarded by the Tribunal is excessive.

6. In view of the order that this Court proposes to pass, notice to the sole respondent is dispensed with.

7. The points for consideration in the instant appeal are as follows:

'a. Whether the finding on negligence by the Tribunal is justified?

b. Whether the quantum of compensation awarded by the Tribunal is just and reasonable?'

8. The claimant/respondent examined himself as P.W.1 and stated that while he was travelling in the bus, the driver of the bus rode the bus in a rash and negligent manner and dashed against the central median



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wall, which caused the accident. The driver of the bus was examined as

R.W.1 and had deposed that he had dashed against the central median wall to avoid an accident with a two wheeler, which was ridden in a rash and negligent manner. However, it is seen that R.W.1 had not given any complaint and he had also not challenged the FIR. Hence, the evidence of R.W.1, who is an interested witness, does not inspire confidence. The evidence of the respondent/claimant is corroborated by his version in the FIR-Ex.P1. Therefore, there is no infirmity in the finding of the Tribunal with regard to negligence.

9. As regards the quantum, it is seen that the claimant had sustained several injuries, including dislocation of bones in the hand and the doctor had assessed the disability at 38%. The Tribunal had awarded the total compensation of Rs.1,36,840/- for the disability and under other heads including loss of income, medical expenses, pain and sufferings, extra nourishment and transportation charges, which is reasonable. Therefore, there is no infirmity in the award of the Tribunal. Hence, the award of the Tribunal is confirmed.

10. The appellant/Transport Corporation is directed to pay the



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enhanced compensation of **Rs.1,36,840/-** (Rupees One Lakh Thirty Six Thousand Eight Hundred and Forty only) together with interest at 7.5% p.a., from the date of the claim petition till the date of realization and costs, less the amount already deposited, if any, within a period of eight (8) weeks from the date of receipt of a copy of this order.

11. On such deposit, the respondent/claimant is permitted to withdraw the award amount with interest and costs, less the amount already withdrawn, if any, by filing appropriate application before the Tribunal.

12. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.10.2024

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



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To:

1. The Motor Accidents Claims Tribunal, Additional District Judge,
Ramanathapuram.

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



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SUNDER MOHAN, J.

apd

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