



C.M.A(MD)No.881 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.01.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.881 of 2021

and

C.M.P.(MD)No.8301 of 2021

The General Manager,
Tamil Nadu State Transport Corporation,
Karaikudi.

... Appellant

Vs.

Karuppasamy

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the order, dated 31.01.2020, passed in M.C.O.P.No.6 of 2018 on the file of the MACT (Chief Judicial Magistrate Court), Ramanthapuram.

For Appellant : Mr.P.M.Vishnuvarthanan

For Respondent : Mr.G.Gangai Amaran

JUDGEMENT

This appeal is filed by the Transport Corporation against the award passed by the Tribunal.



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2. As per the Transport Corporation the accident occurred because of sudden break of the auto driver. In order to avoid accident, the Driver of the Transport Corporation had turned the bus to the right side. However, at the same time, an Ambulance was coming in the opposite direction. Hence, the accident had occurred.

3. But, the finding of the Tribunal is that the auto was parked and it was also plying on the road. In order to overtake the auto, the Driver has turned to the right side without noticing the Ambulance which was coming from the opposite direction and the accident had occurred. Five persons were travelling in the Ambulance. Four persons among them died and one person is the claimant herein. From the nature of the accident and death of four persons it can be inferred that the Bus Driver was driving the vehicle in a rash and negligent way with high speed. Therefore, the contention of the Transport Corporation cannot be accepted.

4. The next contention that was raised by the Transport Corporation is that the Tribunal has taken Rs.4,000/- for disability which



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is on a higher side. However, the Tribunal has referred to the judgment rendered by this Court in C.M.A.No.2670 of 2015 in the case of **Nalina Vs. Muthuselvan and Oriental Insurance Company, Chennai**, dated 06.02.2018, wherein it has been held by this Court that for 1% disability Rs.4,000/- can be awarded. Based on the said judgment, the Tribunal has awarded Rs.4,000/-. Moreover, in the present case, disability is 70%. Therefore, there is no infirmity in the judgment.

5. The appellant is directed to deposit the entire award amount of Rs.11,90,216/- with 7.5% interest and costs within a period of three months from the date of receipt of copy of this judgment, less the amount, if any already deposited and the respondent / claimant shall withdraw the same. If already deposited, the claimant shall withdraw the same. Hence, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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- 1.MACT (Chief Judicial Magistrate Court),
Ramanthapuram.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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Order made in
C.M.A(MD)No.881 of 2021

10.01.2024