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C.M.A.(MD)No.711 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.12.2023

Pronounced on : 15.03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE P.VADAMALAI**

C.M.A.(MD)No.711 of 2023

and

C.M.P(MD)No.9747 of 2023

The Managing Director,  
State Express Transport Corporation Limited,  
Pallavan Salai,  
Chennai – 600 002.

... Appellant/Respondent

Vs.

Maharaja

... Respondent/Petitioner

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award made in M.C.O.P.No. 687 of 2017 dated 21.11.2022 on the file of the Motor Accident Claims Tribunal/Special Sub Court, Tirunelveli.

For Appellant : Mr.P.Prabhakaran



## **JUDGMENT**

This Civil Miscellaneous Appeal is preferred against the award dated 21.11.2022 passed in M.C.O.P.No.687 of 2017 by the Motor Accident Claims Tribunal/Special Subordinate Court, Tirunelveli.

2. The respondent in M.C.O.P.No.687 of 2017 is the appellant herein.

3. The petitioner/claimant is the respondent herein filed the claim petition in M.C.O.P.No.687 of 2017.

4. For the sake of convenience, the parties arrayed in M.C.O.P.No. 687 of 2017 is adopted hereunder.

### **5. The brief facts of the case:**

On 07.05.2017 the petitioner was travelling in the respondent's bus bearing registration number TN 01 N 8105 from Trichy to Chennai and at about 4.30 hours while the respondent's bus was driven by its driver in a rash and negligent manner and dashed against the parked lorry bearing number TN 21 L 1333 near Tholuthur. Due to impact, the petitioner sustained multiple injuries. After taking first aid at Government



Hospital, the petitioner took treatment at Atlas Hospital. Hence, the petitioner filed the claim petition seeking compensation of Rs.10,00,000/-.

6. The Appellant/Transport Corporation objected the claim petition by contending that the accident took place due to negligence of the driver of lorry TN 21 L 1333 who parked the lorry without following the traffic rules. The petitioner has not added the owner and insurance company of the said lorry. Therefore, the petitioner is not entitled to compensation from the respondent.

7. Before the Tribunal both side adduced oral and documentary evidence. After hearing both and considering the evidence, the Tribunal has held negligence on the driver of the respondent's bus and awarded compensation of Rs.3,80,950/- to the petitioner. Aggrieved by the said award, the respondent/Transport Corporation has preferred this Civil Miscellaneous Appeal.

8. Heard the learned counsel for the appellant at the admission stage of the appeal and perused the records.



9. On perusal of records, it is clear that the F.I.R. and charge sheet were registered against the driver of the bus. The respondent took plea that due to negligence of the driver of parked lorry, who parked without following traffic rules, the accident took place and the petitioner did not add the owner and Insurance Company of the lorry. The Appellant/Transport Corporation being a party can file a petition for impleading them in the claim petition, but failed to do so. Further, though the appellant argued that the Tribunal awarded Rs.5,000/- towards 1% disability, is on higher side, the appellant has not placed sufficient material to show the award of Rs.5,000/- against 1% disability is high. During the course argument at the admission stage, the learned counsel for the appellant has submitted that the appellant deposited the entire award amount as awarded by the Tribunal and filed a memo to that effect. In such circumstances, this Court holds that the appellant has no sufficient case in this appeal, that is why, the appellant has deposited the entire amount instead of challenging the award before this Court. Therefore, the compensation awarded by the Tribunal is held correct and the same is not liable to be set aside.

10. In the result, this Civil Miscellaneous Appeal is dismissed at the admission stage itself and the award dated 21.11.2022 passed by



C.M.A.(MD)No.711 of 2023

Motor Accident Claims Tribunal/Special Sub Court, Tirunelveli in  
M.C.O.P.No.687 of 2017 is confirmed. No costs. Consequently,  
connected Miscellaneous Petition is closed.

15.03.2024

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
VSD

To

- 1.The Motor Accident Claims Tribunal/  
Special Sub Court,  
Tirunelveli.
- 2.The Record Keeper,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**P.VADAMALAI, J.**

VSD

Pre - Delivery Judgment made in  
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15.03.2024