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CMA.(MD)No.617 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10/06/2024

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The Hon'ble Mr.Justice **G.ILANGOVAN**

CMA (MD) No. 617 of 2021

and

CMP (MD) No. 5925 of 2021

The General Manager,
M/s.Tamilnadu State Transport Corporation
(Kumbakonam) Limited,
Railway Station New Road,
Kumbakonam-612 001. : Appellant/Respondent

Vs.

Jermiah Jerome : Respondent/Claimant

PRAYER:-Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the impugned awarded passed in MCOP No.271 of 2017, dated 11/11/2020 on the file of the MACT (Special Sub Court), Trichy and pass any other order.

For Appellant : Mr.P.M.Vishnuvarthanan

For Respondent : No appearance

JUDGMENT

This Civil Miscellaneous Appeal is filed seeking an order to set aside the impugned awarded passed in MCOP No.271 of 2017, dated 11/11/2020 by the Motor Accident Claims Tribunal (Special Sub Court), Trichy.



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2. The facts in brief:-

On 28/10/2016 at about 03.15 pm, the petitioner was riding his two wheeler bearing registration No.TN-49-BC-6874 on Thanjavur-Trichy main road from east to west direction keeping the left side. At that time, near the place of occurrence, a Bus bearing registration No.TN-68-N-0693 was driven by its driver in a rash and negligent manner on the same direction and hit the petitioner behind. He sustained injuries and taken to the hospital. He was inpatient from 28/10/2016 to 31/10/2016. Till date, he is continuing his treatment as outpatient. Because of the accidental injuries, he suffered permanent disability.

3.Over the occurrence, a case in Crime No.293 of 2016 was registered by the Thuvakudi Police Station against the driver of the Bus. Claiming compensation amount of Rs.10,00,000/-, the claim petition was filed.

4.That was resisted by the Appellant Transport Corporation by filing a counter contending that the vehicle was not involved in the occurrence; The vehicle crossed the occurrence place at about 02.25 pm and reached the Central Bus Stand, Trichy at about 3.50 pm; Without noting the correct particulars of the vehicle



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involved in the accident, the claim application is filed;
Apart from that, other customary denials were made.

5.Before the Tribunal, on the side of the claimant, 2 witnesses were examined and 13 documents marked. On the side of the Transport Corporation, one witness was examined and one document marked. Through the witnesses, Exs.X1 and X2 were marked. Disability Certificate of the claimant was marked as Ex.C1.

6.At the conclusion of the enquiry process, the Tribunal recorded a finding that the vehicle belongs to the appellant was involved in the occurrence and the occurrence took place due to the rash and negligent act on the part of the appellant Bus driver. So the contention of the appellant that the vehicle was not involved was negatived.

7.Regarding the compensation, taking into account the disability suffered by the petitioner, the Tribunal arrived at the total compensation as detailed below:-

Disability (25 x 5000)	Rs.1,25,000/-
Pain and sufferings	Rs. 60,000/-
Nutrition Food	Rs. 15,000/-
Lac of comfort due to the accident	Rs. 15,000/-



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Attendance charges	Rs. 15,000/-
Mental distress caused to the petitioner's parents	Rs. 10,000/-
Damages to clothing and articles	Rs. 2,000/-
Transport to Hospital	Rs. 10,000/-
Unavoidable medical expenses	Rs. 5,000/-
Total	Rs.2,57,000/-

8.Against which, this appeal is preferred by the Appellant Transport Corporation contending the very same facts.

9.Heard the learned counsel appearing for the appellant. There was no appearance for the respondent, so his name is printed in the cause list.

10.Entire records have been called for from the trial court and perused.

11.PW1 is the claimant. He has stated that the vehicle bearing registration No.TN-68-N-0693 was involved in the occurrence. He identified the vehicle and lodged the complaint. A case in Crime No.293 of 2016 was registered against the appellant Transport Corporation Bus driver.



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12.It was suggested to him that in the criminal case, the appellant driver was acquitted. But no suggestion was made to the effect that the appellant driver was not involved in the occurrence. It was suggested to him that without noticing the traffic in the road, the petitioner suddenly crossed the road and invited the accident. So, this suggestion made by the appellant before the Tribunal runs quite contra to the averments made in the counter and in the grounds of appeal.

13.On the side of the appellant RW1 was examined, who is the driver of the vehicle. He has stated in his evidence that at about 02.45 pm, he crossed the occurrence place and stated no occurrence took place during his trip.

14.As mentioned above, his evidence also runs quite contra to the cross examination made to the petitioner. The occurrence said to have taken place at about 03.15 pm. The complaint was given at 07.00 pm on the next day namely 21/10/2016.

15.Reading of the FIR does indicate that soon-after the occurrence, he was admitted in the Trichy Apollo



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Hospital. At that time only, the statement was recorded from him. After that, a case in crime No. 293 of 2016 was registered. So, the delay in giving statement cannot be taken advantage by the appellant. At the time of giving statement, it is clearly stated by him that the vehicle bearing registration No.TN-68-N-0693 was involved in the occurrence. So, the contention on the part of the appellant that the appellant vehicle is not involved in the occurrence is not at all correct on record. So, this contention is rejected.

16.The learned counsel appearing for the appellant has also produced the trip sheet of the vehicle bearing registration No.TN-68-N-0693. By relying upon this document, he has stated that the vehicle reached Trichy Central Bus Stand at the time of the occurrence. But this document was not produced before the Tribunal. So this document cannot be taken into account to come to the conclusion that the vehicle crossed the occurrence place at the time mentioned by the claimant in his complaint.

17.Regarding the compensation, no argument was advanced on the side of the appellant. The only point raised by the appellant is now decided against him. On that ground, this appeal is liable to be dismissed, confirming the award passed by the Tribunal.



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18.In the result, this Civil Miscellaneous Appeal is

dismissed. No costs. Consequently, connected

Miscellaneous Petition is closed.

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Index:Yes/No

Internet:Yes/No

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To,

1.The Motor Accident Claims Tribunal/
Special Sub Court, Trichy.

2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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