



C.M.A(MD)No.798 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.04.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.798 of 2019

The Divisional Manager,
Tamil Nadu State Transport Corporation Limited,
Kumbakonam,
Kumbakonam Munsif and Town,
New Railway Station Road. ... Appellant/3rd Respondent

Vs.

1.Minor Arivalagan,
Represented by his father, natural guardian
Kamaraj. ... 1st Respondent/Claimant

2.Rajaraman

3.The Branch Manager,
United India Insurance Company Limited,
Pradeep Tower,
Chinniah Street,
Pattukottai Munsif and Town,
Thanjavur District. ... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the impugned award passed in M.C.O.P.No.246 of 2014, dated 01.08.2018 on the file of the Motor Accident Claims Tribunal (III Additional Sessions Judge, Thanjavur), Pattukottai, dated 01.08.2018.



WEB COPY



C.M.A(MD)No.798 of 2019

For Appellant : Mr.P.M.Vishnuvarthanan
For R-1 : Mr.B.Anandan
For R-2 : No appearance
For R-3 : Mr.I.Robert Chandrakumar

JUDGMENT

The Transport Corporation has filed the present appeal challenging the award passed in M.C.O.P.No.246 of 2014 on the file of the Motor Accident Claims Tribunal / III Additional Sessions Judge, Thanjavur, Pattukottai, primarily on the ground of liability.

2. According to the injured claimant, he was a passenger in the bus owned by the third respondent Transport Corporation. A tractor came from the opposite direction and dashed against the Transport Corporation bus in which he sustained injuries. He prayed for a sum of Rs.5,00,000/- as compensation. The owner of the tractor had remained *ex parte*.

3. The insurer of the tractor had filed a counter contending that the accident has taken place only due to the rash and negligent driving on the part of the driver of the Transport Corporation. The Tribunal after



C.M.A(MD)No.798 of 2019

considering the evidence on either side, ultimately arrived at a finding that, both the driver of the tractor as well as the bus are equally responsible for the accident and apportioned the liability as 50/50 and ultimately a sum of Rs.81,117/- was awarded. Challenging the fixation of 50% of liability, the present appeal has been filed by the Transport Corporation.

4. According to the learned Counsel appearing for the Transport Corporation, as per the claim petition, the entire negligence is on the driver of the tractor. Evidence has also been let in only to indicate that the driver of the tractor was solely responsible for the accident. In such a situation, the Tribunal ought not to have mulcted 50% of liability upon the driver of the Transport Corporation. Hence, he prayed for exonerating the Transport Corporation and mulcting the entire liability upon the respondents 1 and 2 in the claim petition.

5. Per contra, the learned Counsel appearing for the respondent claimants have contended that the Tribunal after considering the damage caused to both the vehicles, has arrived at a reasoned finding and therefore, the same may not be interfered with. The learned Counsel



C.M.A(MD)No.798 of 2019

appearing for the Insurance Company has not challenged the mulcting of 50% liability upon them.

6. I have carefully considered the submissions made on either side and perused the materials available on record.

7. The Tribunal has relied upon Exhibit P.7, which is the Motor Vehicle Inspector's report relating to the bus of the Transport Corporation. Exhibit P.6 relates to the Motor Vehicle Inspector's report of the tractor. Both the reports indicate that there was a head on collision between the vehicles and therefore, the driver of both the vehicles were equally responsible for the said accident. The Transport Corporation has not examined its driver to establish that there was no negligence on the part of the driver of the Transport Corporation or to mulct the liability solely upon the driver of the tractor.

8. In such circumstances, this Court is of the considered view that the Tribunal was right in mulcting the liability equally upon the drivers of the Transport Corporation and the tractor.



C.M.A(MD)No.798 of 2019

WEB COPY

9. In view of the above said deliberations, there are no grounds to interfere in the present appeal. Hence, this Civil Miscellaneous Appeal stands dismissed. The claimant having attained majority is permitted to withdraw the entire amount along with accrued interest. There shall be no order as to costs.

26.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

- 1.The Motor Accident Claims Tribunal
(III Additional Sessions Judge, Thanjavur),
Pattukottai.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A(MD)No.798 of 2019

R.VIJAYAKUMAR, J.

BTR

Judgment made in
C.M.A(MD)No.798 of 2019

26.04.2024