



C.M.A(MD)No.143 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.04.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.143 of 2015
and M.P(MD)No.1 of 2015

The Managing Director,
Tamilnadu State Transport Corporation Limited,
19, Thiruvananthapuram Road,
Thirunelveli District.

... Appellant

Vs.

1. Bright
2. The State Express Transport Corporation Limited,
Represented by its Managing Director,
Pallavan Road, Chennai.
3. Palani
4. Nagarajan,

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the award dated 12.06.2013 made in M.C.O.P.No.82 of 2011 on the file of the Motor Accident Claims Tribunal, Special Court for Forest Offences Cases, Nagercoil.

For Appellant : M/s.S.Micheal Heldon Kumar

For R-1 : Mr.G.Ramanathan

For R-2 : Mr.P.Prabakaran

For R-3 & R-4 : No Appearance



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JUDGMENT

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The Transport Corporation has preferred this appeal against the award, dated 12.06.2013 passed in M.C.O.P.No.82 of 2011 on the file of the Motor Accident Claims Tribunal, Special Court for Forest Offences Cases, Nagercoil.

2. It is a case of injury. The contention of the Appellant/ Transport Corporation is that the offending vehicle is the 2nd respondent/ State Express Transport Corporation. Since the accident was head on collision, the Tribunal ought to be fixed contributory negligence on the 2nd respondent/State Express Transport Corporation as well. But the Learned Counsel appearing for the 2nd respondent vehemently objected since the Appellant herein remained exparte before the Tribunal.

3. On perusal of the material documents available on record, it is seen that the road is only 22 feet. Therefore, both the vehicles ought to have plied carefully. The contention of the 2nd respondent is that the appellant was coming in a rash and negligent manner.



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4. On perusal of the counter filed by the 2nd respondent it is stated that the driver tried to apply brake, but he could not do so effectively. In such circumstances, this Court is of the considered opinion that there is some prima facie evidence for contributory negligence on the part of the bus belongs to the 2nd respondent/State Express Transport Corporation as well. But proper evidence is necessary to come to the conclusion for negligence. Therefore, this Court is of the considered opinion that the case ought to be remitted back to the Tribunal for reconsidering the issue of negligence.

5. Moreover, it is seen that both the conductors were affected and some of the persons were injured. Therefore, it will not be appropriate to fix liability on the State Express Transport Corporation without proper appreciation of evidence. And on this angle also this Court is convinced that the case ought to be remitted back.

6. Because of remitting the case, the injured shall not suffer. Hence in order to meet the ends of Justice, this Court directs the



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Appellant to deposit the entire amount of compensation granted by the Tribunal and the amount shall be disbursed to injured.

7. However, the amount will be proportioned based on the fixation of liability by the Tribunal. In case, if the Tribunal is fixing liability on the State Express Transport Corporation and the said amount the Appellant is permitted to recover the same.

8. Accordingly, this Civil Miscellaneous Appeal is partly allowed. This matter is remitting back to the Tribunal for fixing negligence alone. The said proceedings shall be concluded within a period of 3 months from the date of receipt of a copy of the order. No Costs. Consequently, connected miscellaneous petition is closed.

26.04.2024

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

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To

1. The Motor Accident Claims Tribunal/
Special Court for Forest Offences Cases,
Nagercoil.
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.143 of 2015**

26.04.2024