



C.M.A.(MD) No.958 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2024

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THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.958 of 2024

and

C.M.P.(MD)No.10096 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam Division -II),
Periyamilaguparai, Trichy.

... Appellant

Vs.

1.M.Ilayaraja @ Raja,
2.M.Babu,
3.Royal Sundaram Alliance Insurance Company Ltd.,
Chengalpet,
Kancheepuram,
Through its Branch Manager.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 05.09.2011 passed in M.C.O.P.No.10 of 2008 on the file of the Motor Accidents Claims Tribunal, Devakottai.

For Appellants : M/s.P.F.Ferlin Castro

For Respondents : No appearance



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J U D G M E N T

WEB COPY The instant appeal has been filed challenging the finding on negligence and the quantum of compensation awarded by the Tribunal.

2. The first respondent filed a claim petition stating that on 25.10.2006, while the first respondent was traveling in the bus, belonging to the appellant/Transport Corporation, the driver of the bus drove the bus in a rash and negligent manner and collided with a lorry, belonging to the second respondent, as a result of which, the first respondent sustained grievous injuries.

3. The appellant/Transport Corporation filed a counter stating that the accident did not take place due to the negligence of its driver and that in any case, the compensation claimed by the claimant/first respondent was excessive.

4. The second respondent remained *ex parte* before the Tribunal.

5. The third respondent filed a counter stating that they were not necessary parties and that the accident took place only due to the negligence of the driver employed under the appellant/Transport



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Corporation.

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6. Before the Tribunal, the first respondent/claimant examined himself as P.W.1 and another witness, Dr.Devakumar as P.W.2 and marked Exs.P1 to P12. The appellant/Transport Corporation neither examined any witness nor marked any document.

7. The Tribunal, after taking into consideration the oral and documentary evidence, awarded the compensation of Rs.2,49,176/- to the claimant/first respondent herein, payable by the appellant/Transport Corporation.

8. The learned counsel for the appellant/Transport Corporation submitted that the lorry, which was parked in the middle of the road, has also contributed to the accident and therefore, the finding of the Tribunal fixing the entire liability on the appellant/Transport Corporation is erroneous and that the compensation awarded by the Tribunal under all other heads is excessive and hence, prayed for reduction of compensation.

9. The questions involved in the instant appeal are as follows:



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‘a. Whether the finding on negligence by the Tribunal is in accordance with law?

b. Whether the compensation awarded is just and reasonable?’

10. This Court perused the award of the Tribunal. The first respondent/claimant had examined himself as P.W.1 and had narrated the manner of the accident, which suggests that the bus driver was responsible for the accident. The appellant/Transport Corporation had not chosen to examine its driver to prove its case. The first respondent/claimant had also marked Ex.P1/FIR and other records, which corroborates the evidence of P.W.1, as regards the manner of accident. Therefore, this Court is of the view that the first respondent/claimant has established that the accident took place only due to the rash and negligent driving of the bus driver. The first question is answered accordingly.

11. As regards the compensation, this Court finds that the first respondent/claimant had marked Ex.P2-Wound Certificate, Ex.P11-X-Ray and Ex.P12-Disability Certificate, to prove the injuries suffered by him; besides Exs.P3, Ex.P6 and P10-Medical Bills, to prove the expenses incurred for treatment. Considering all the evidence, the Tribunal had



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awarded Rs.30,000/- for the disability suffered by the first respondent/claimant and the various amounts under other conventional heads, totally Rs.2,49,176/-. The appellant/claimant is unable to point out any infirmity in the award of compensation under the said heads of compensation. Therefore, this Court is of the view that the award of the Tribunal deserves to be confirmed.

12. The appellant/Transport Corporation is directed to deposit Rs.2,49,176/- (Rupees Two Lakhs Forty Nine Thousand One Hundred and Seventy Six only) together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and costs, less the amount already deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this order.

13. On such deposit, the first respondent/claimant is entitled to withdraw the aforesaid amount together with proportionate interest and costs, less the amount already withdrawn, if any, by filing an appropriate application before the Tribunal.



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14.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd

To:

1. Motor Accidents Claims Tribunal,
Devakottai.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

apd

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