



CMA.No.3573 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CMA.No.3573 of 2024

and

CMP.No.30097 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Vellore.

...Appellant

Vs.

Sulthan

...Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, as against the judgment and decree dated 01.04.2022 made in MCOP.No.144 of 2019 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Tirupattur.

For Appellant : M/s.J.Tamil Selvi

JUDGMENT

Challenging the judgment and decree dated 01.04.2022 made in MCOP.No.144 of 2019 on the file of the Motor Accident Claims



CMA.No.3573 of 2024

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Tribunal, Special Subordinate Judge, Tirupattur, the appellant has come up with this appeal.

2. It is the case of the respondent/claimant that, on 13.04.2018 at about 8.50 p.m., when he was proceeding in a two wheeler bearing Regn.No.TN-23-BZ-6693 on Tirupattur to Vaniyambadi main road, the appellant transport corporation bus bearing Regn.No.TN-23-N-1851 driven by its driver came in a rash and negligent manner and dashed against the above two wheeler, due to which, the respondent sustained grievous injuries and got admitted in the hospital. Thereby, the respondent filed a claim petition in MCOP.No.144 of 2019 claiming a compensation of Rs.10,00,000/-. Before the Tribunal, the claimant examined himself as P.W.1 and an eye witness as P.W.2 and marked exhibits P.1 to P.10 and on the side of respondents, one witness viz. R.W.1 was examined and no exhibits were marked. After trial, the Tribunal, on appreciation of oral and documentary evidence awarded a sum of Rs.1,69,381/- towards compensation payable by the appellant/ insurance company. Aggrieved by the same, the appellant/insurance company has come up with this appeal.



CMA.No.3573 of 2024

WEB COPY

3. Learned counsel for the appellant/Insurance company submitted that the above said accident happened solely due to the rash and negligent driving of the respondent and the same is evident from the Ex.P1, FIR filed as against the respondent. While so, though the First Information Report clearly states that the said accident had occurred purely due to the negligence on the part of the claimant who drove the vehicle in a rash and negligent manner which was the cause for the accident for which, the criminal case has been registered against the claimant, the Tribunal without properly appreciating the evidence, has fastened the negligence against the appellant which is wholly unsustainable. Further, the compensation awarded by the tribunal under the various heads is also on the higher side, which must be interfered with. Accordingly, she prayed for allowing the appeal.

4. Heard learned counsel for the appellant and perused the material documents placed on record.

5. The main contention of the learned counsel for the appellant relates to the fact that the FIR which has been marked as Ex.P1, filed



CMA.No.3573 of 2024

WEB COPY

against the claimant has not been properly considered by the tribunal. It has been the consistent ratio laid down by the Courts that the FIR is not a substantive document and it has to be substantiated by acceptable positive legal evidence and whatever is spoken in the FIR need not be taken at its face value and when the respondent/claimant who examined himself as P.W.1 and the individual eye witness examined as P.W.2 have clearly deposed the manner in which the accident had happened and had stated that the accident had happened solely due to the rash and negligent driving of the driver of the appellant transportation corporation vehicle and when the deposition of the claimant as well as the eye witness before the Court is contra to the FIR, the deposition would survive over and above the FIR.

6. Further, due to the above accident, the respondent sustained injuries and could not immediately go to the Police station to register an complaint and taking advantage of the same, the driver of the appellant transport corporation made a complaint before the law enforcing agency.

In such circumstances, mere filing of FIR as against the respondent/



CMA.No.3573 of 2024

WEB COPY

claimant would not entail the appellant to contend that the accident had happened solely due to the rash and negligence on the part of the respondent.

7. Therefore, when the ocular testimony has clearly pointed the finger on the driver of the appellant transport corporation vehicle for rash and negligent driving, the mere fact that the FIR has been lodged against the claimant alone cannot be the basis to attribute rash and negligent driving on the claimant.

8. Further, the Tribunal has passed an award based on the evidence of P.W.1 and P.W.2. On perusal of the impugned award, it is seen that except the driver of the appellant transport corporation bus, no other individual eye witness was examined on the side of the appellant in order to disprove the case of the claimant. In the absence of any contra evidence through individual witness to the depositions of the P.W.1 and P.W.2, the Tribunal, after considering the oral and documentary evidences, particularly the evidence of P.W.2, which is more reliable than



CMA.No.3573 of 2024

WEB COPY

the evidence of R.W.1, has rightly fixed the negligence on the part of the driver of the appellant insured vehicle and the said findings of the Tribunal cannot be interfered with.

9. With regard to quantum of compensation, it is the claim of the appellant that the compensation awarded by the Tribunal is highly excessive which requires reconsideration. In this regard, this Court perused the impugned award passed by the Tribunal and upon perusal of the impugned award, this Court is of the view that, by no stretch the compensation awarded in the appeal could be said to be excessive or disproportionate. Therefore, this Court is not inclined to interfere with the impugned award passed by the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal stands dismissed, confirming the impugned award dated 01.04.2022 passed by the Tribunal in MCOP.No.144 of 2019 and the Appellant-Insurance company is directed to deposit the compensation awarded by the tribunal to the credit of MCOP.No.144 of 2019 along with interest at the rate of 7.5% per



CMA.No.3573 of 2024

WEB COPY

annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount to the claimant directly to his bank accounts through RTGS within a period of two (2) weeks thereafter. There shall be no order as to costs in this appeal. Consequently, the connected Miscellaneous petition is closed.

08.01.2025

skt

NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No

To:

The Motor Accident Claims Tribunal, Special Subordinate Judge,
Tirupattur.



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CMA.No.3573 of 2024

M.DHANDAPANI, J.

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CMA.No.3573 of 2024
and
CMP.No.30097 of 2024

08.01.2025