

(1999) 06 MAD CK 0023
In the Madras High Court

Managing Director, Annai Sathya Transport Corpn. Ltd.

APPELLANT

Vs

Chinnammal and Others

RESPONDENT

Date of Decision : 10-06-1999

Acts Referred:

Citation : (2000) 1 ACC 27 : (2000) 1 LW 275

Hon'ble Judges : M. Karpagavinayagam, J

Bench : Single Bench

Judgement

M. Karpagavinayagam, J.—Annai Sathya Transport Corporation is the appellant herein.

2. Challenging the award dated 2.2.1993 in MCOP No. 390 of 1991 on the file of the Subordinate Judge, Sankari, this appeal has been filed

before this Court on the ground of negligence.

3. According to the first claimant, the wife of the deceased, the deceased on 18.2.1990 at about 3.45 p.m. was coming along the left side of the

road in a bicycle and at that time, the driver of the bus belonging to the appellant Corporation drove the vehicle in a rash and negligent manner and

hit against the deceased, as a result of which he died on the spot. The claimants claimed a total compensation of Rs. 2 lakhs.

4. The contention of the appellant was that the deceased alone was negligent by riding the bicycle from north to south and suddenly darted across

the road and consequently, there was an accident and as such, the appellant was not liable to pay any compensation.

5. On perusal of the evidence, the Tribunal concluded that the appellant's driver was negligent and the claimants were entitled to the compensation

of Rs. 1,08,000/- as against the total compensation of Rs. 2 lakhs.

6. Mr. R. Swaminathan, learned Counsel appearing for the appellant would contend that the damage caused to the bus as per the Motor Vehicles

Report Ex. P3 was in the left side of the bus and as such, the evidence of R.W. 1, the driver of the bus to the effect that the deceased came in a

bicycle from north and darted across the main road towards south and that was how the accident occurred by which the left side of the vehicle got

damaged, should be accepted.

7. Heard the learned Counsel appearing for the respondents.

8. On a perusal of the evidence, records and the impugned order, I am of the view that the contentions urged by the learned Counsel for the appellant cannot be countenanced.

9. According to P.W. 2, who is eye-witness to the occurrence, the deceased was coming in the bicycle on the left side of the road and the bus was

coming in the opposite direction and hit against the deceased. It is not the statement of P.W. 2 either in the deposition or in the First Information

Report marked as Ex. A1 that the deceased was coming from eastern side to western side and the bus was coming in the opposite direction.

10. It is the evidence of R.W. 1 that the deceased was coming from east to west. To the said effect, if there is any material available on the

claimants' side, then there is some point in the submission made by the learned Counsel for the appellant, as referred to above.

11. As a matter of fact, the deposition given by R.W. 1, the driver of the bus, would make it clear that the stand taken in the chief examination is

entirely different from the stand taken by him in the cross-examination. In the clue examination, he would say that the deceased was coming from

north to south from his left side. In the cross examination, he would state that the deceased came in a bicycle on the right side. In the light of the

contradictory stand taken by R.W. 1, the evidence adduced by P.W. 2 who is the eye-witness to the occurrence assumes significance.

12. The contents of the First Information Report as well as the deposition of P.W. 2, in my view, are quite consistent. In the deposition, he would

state that the deceased was coming on the left side of the road and the bus belonging to the appellant Corporation came in the opposite direction

with a great speed and hit against the deceased. Moreover, after the impact, the bus stopped only after 10 feet that too, he drove the bus to the

right side and then it fell into a pit.

13. Thus, it is also made clear from the other records and in the light of the First Information Report which was marked as Ex. A1 and the

investigation conducted by the police, the charge sheet of which had been marked as Ex. A4 that the driver of the bus was negligent in driving the

bus.

14. Therefore, in my view, the reasonings given by the Tribunal for fastening the liability on the appellant Corporation on the basis of the finding that

the driver of the bus was negligent cannot be said to be erroneous and consequently, the appeal fails. Hence, the Civil Miscellaneous Appeal is

dismissed. No costs.