
(1999) 04 MAD CK 0043
In the Madras High Court
Case No : C.M.A. No. 338 of 1992

Thiruvalluvar Transport Corporation Ltd. APPELLANT
Vs
C.K. Syed Yacoob RESPONDENT

Date of Decision : 12-04-1999

Acts Referred:

Motor Vehicles Act, 1988 — Section 110

Citation : (2000) 1 ACC 67 : (2001) ACJ 1778 : (2000) 1 LW 269

Hon'ble Judges : M. Karpagavinayagam, J

Bench : Single Bench

Advocate : Kala Ramesh, for P. Sukumar, for the Appellant; A. Maheen, for the Respondent

Judgement

M. Karpagavinayagam, J.—Thiruvalluvar Transport Corporation challenging the award of Rs. 50,000 in M.C.O.P. No. 209 of 1988 on the

file of the Principal Subordinate Judge, Cuddalore, South Arcot District (Motor Accidents Claims Tribunal) has filed this appeal on the ground of

negligence and of the quantum.

2. Syed Yacoob, the respondent herein, being the owner of the van for the damage caused to it due to rash and negligent driving of the driver of

the bus of the appellant Corporation claimed Rs. 50,000 as compensation. The Tribunal, after recording evidence concluded that the van got

damaged due to negligent driving of the driver of the bus belonging to the appellant Corporation and that the respondent/claimant was entitled to

the amount of compensation of Rs. 42,000 towards the damage caused to the van and Rs. 8,000 towards the loss of income for the period when

the van was kept idle under repairs.

3. While attacking this order, Mrs. Kala Ramesh, learned counsel for the appellant

submitted that the aspect of negligence was decided by the Tribunal by relying upon the interested testimony of PW 1, the owner of the van, without giving due importance to the evidence of RW 1, who is the conductor of the appellant Corporation bus. She would also contend that the award of Rs. 8,000 towards loss of income would not be permissible since u/s 110 of the Motor Vehicles Act, the damages can be claimed only in respect of the damage caused to the property and not towards the loss of business owing to the vehicle remaining idle under repairs.

4. Mr. Maheen, learned counsel for the respondent is heard.

5. Regarding the negligence, I am not inclined to accept the contentions of the learned counsel for the appellant as in my view, the conclusion arrived at by the Tribunal that the driver of the appellant Corporation bus was negligent is correct and unassailable. But as regards the award of compensation of Rs. 8,000 towards the loss of business, I find sufficient force in the contention urged by the learned counsel for the appellant.

6. In this regard, this court in the case of *Nesamony Transport Corporation Ltd. v. Kochammal I* (1995) ACC 601, held that the claimant can claim with reference to the damage to the property alone and not towards the loss of business in the period when it was kept idle under repairs.

7. Therefore, accepting the contentions of the learned counsel for the appellant, I am inclined to hold that the claimant is entitled to Rs. 42,000 towards the damage caused to the property alone. Accordingly, the total award of Rs. 50,000 is modified to the effect that the appellant Corporation is directed to pay the award of Rs. 42,000 with 12 per cent interest from the date of application till the realisation of the amount.

However, as requested by the learned counsel for the respondent, it is open to the claimant to approach the civil court to claim the amount of Rs.

8,000 being the loss of business when the vehicle was kept idle under repairs.

8. With the above observation, the appeal is partly allowed. No costs.