

In the High Court of Judicature at Madras

Date :: 24.08.2015

Coram ::

The Hon'ble Mr. Justice R. Sudhakar

C.M.A. No: 1856 of 2015

and

MP.NO.1 OF 2015

Managing Director
The Metropolitan Transport
Corporation Ltd.
Pallavan House
No: 2 Pallavan Salai
Chennai - 600 002.

... Appellant/Respondent

-vs-

E. Suresh
S/o. Elumalai
No: 26 Wireless Road
Porur, Chennai - 600 116.

... Respondent/claimant

Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act 1988 against the judgment and decree passed in M.C.O.P. No:1192 of 2006 dt. 12.08.2010 on the file of the learned Motor Accidents Claims Tribunal (III Judge, Small Causes Court) Chennai.

For Appellant :: M/s. S.S. Swaminathan

.. ..

J U D G M E N T

This is an appeal filed by the transport corporation challenging the award of compensation both on the quantum and negligence.

2. In view of the order to be passed in this appeal, this appeal is taken up for disposal today.

3. It is a case of injury. The accident in this case happened on 02.03.2006 at about 8.45 a.m. The claimant E. Suresh, aged about 20 years, was attempting to get into the bus bearing Registration No:

TN-01-N-1661 at Poonamallee High Road, Hussain Bath School, in front of UTI Bank. At that time, the driver of the bus drove the same in a rash and negligent manner due to which act, the claimant fell down and sustained grievous injuries. According to the claimant, the accident had occurred due to the driving of the bus by its driver in a rash and negligent manner. In the accident the claimant suffered head injury, a fracture of right fibula bone and dislocation of right knee. He had taken treatment at MIOT Hospital as inpatient. FIR was registered against the driver of the appellant Transport Corporation bus who drove the vehicle in a rash and negligent manner and caused the accident. The claimant filed a claim for compensation in a sum of Rs.2,50,000/-. According to the claimant, he was working as Plastic Moulder in P.S. Injunction Moulding Company and was earning a sum of Rs.5,700/- per month.

4. In support of the claim, the claimant examined himself as P.W.1. The Doctor was examined as P.W.2. Exs. P-1 to P-8 were marked, the details of which are as follows:-

Ex.P-1 is the copy of FIR

Ex.P-2 is the copy of the discharge summary

Ex.P-3 is the scan report

Ex.P-4 series are the prescriptions

Ex.P-5 series are the medical bills

Ex.P-6 series are the hospital bills

Ex.P-7 is the x-ray

Ex.P-8 is the copy of the disability certificate

While the driver of the bus which caused the alleged accident was examined as R.W.1 no document was marked on behalf of the appellant before the Tribunal.

5. Based on the oral and documentary evidence, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl.No.	Head	Amount granted by the Tribunal
1	Loss of income - 2 months	Rs. 9,000/-
2	Transportation	Rs. 1,000/-
3	Extra Nourishment	Rs. 1,000/-
4	Medical expenses	Rs. 5,500/-
5	Towards Pain & Suffering	Rs. 10,000/-
7	Towards disability	Rs. 1,00,000/-
	Total	Rs. 1,26,500/-

6. The Tribunal, based on the oral and documentary evidence produced before it, came to conclusion that the driver of the bus,

who drove the bus in a rash and negligent manner, was responsible for the accident and consequently liability was fixed on the appellant. On this issue, even before the Tribunal, the appellant had contended that the accident had caused only due to the negligence of the claimant and that the claimant was guilty of contributory negligence. However, the Tribunal had rejected such a plea by holding that there are two different versions about the manner in which the accident had happened viz. The driver of the bus, who was examined as R.W.1, had deposed that in spite of warning given by the conductor, the claimant travelled at the foot step of the bus and by slip of hand, fell down and sustained injuries whereas in the counter affidavit filed before the Tribunal, it is stated that when the claimant was trying to board the bus and in that process the claimant fell down and sustained injuries. However, since the First Information Report was registered against the appellant's bus driver, the Tribunal came to the conclusion that the bus driver was responsible for the accident.

7. In so far as the amount granted towards compensation is concerned, according to the claimant he was employed as a plastic moulder in P.S. Injunction Moulding Company and was earning a sum of Rs. 5,700/- per month. Since the claimant had not produced any record to support his income, the Tribunal had fixed his monthly income at Rs. 4,500/- and granted a sum of Rs. 9,000/- towards loss of income for two months during the period of treatment. The Tribunal, considering the fact that the claimant was taken to MIOT Hospitals for treatment and he was admitted as in-patient, had granted a sum of Rs. 1,000/- each towards transportation charges and extra nourishment. As far as the medical expenses are concerned, accepting the medical bills produced, the Tribunal had granted a total sum of Rs. 5,500/- towards medical expenses. Further, the claimant had suffered a head injury, a fracture of right parietal bone and dislocation of right knee. According to the Doctor, P.W.2, due to the fracture of right parietal bone and cerebral edema, the claimant suffers from headache, vertigo, shivering of left hand and leg, loss of memory power and is also facing difficulty in turn the neck. He assessed the permanent disability at 30%. There is also dislocation of right knee. Considering the injuries suffered and the consequence thereof resulting in 30% disability, the Tribunal had granted a sum of Rs.1,00,000/- towards disability and a sum of Rs. 10,000/- towards pain and suffering. In all, the Tribunal had granted a sum of Rs. 1,26,500/- as compensation to the claimant.

8. Considering the facts and circumstances of the case, the young age of the claimant - 20 years, the consequent disability suffered by him, this Court is of the opinion that the compensation granted by the Tribunal on the aforesaid heads are reasonable and it does not require any reduction or modification. Hence, it is confirmed. There is no dispute with regard to interest granted by the Tribunal at 7.5% and the same is also confirmed.

9. Accordingly, finding no merit, this Civil Miscellaneous Appeal is dismissed at the admission stage. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CO)
dt:09/10/2015

True Copy

Sub-Assistant Registrar

To

Motor Accidents Claims Tribunal
III Judge, Small Causes Court
Chennai.

copy to :
The Section Officer,
VR Section High Court Madras

+1 cc to Mr.S.S.Swaminathan, Advocate sr.44862

C.M.A. No: 1856 of 2015

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