



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2015

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A.No.11 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan Salai, Chennai - 2. .. Appellant/Respondent

Vs

K.Vinoth Kumar .. Respondent/Petitioner

Prayer: This Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 23.09.2013, made in M.C.O.P.No.1969 of 2011, on the file of the Motor Accident Claims Tribunal, Vth Small Causes Court, Chennai.

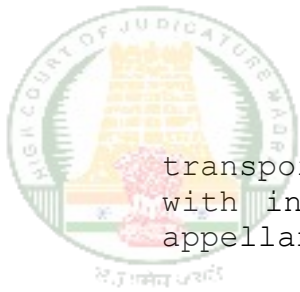
For appellant : Mr.S.V.Vasanthakumar

JUDGMENT

This appeal is filed against the judgment and decree dated 23.09.2013, made in M.C.O.P.No.1969 of 2011, on the file of the Motor Accident Claims Tribunal, Vth Small Causes Court, Chennai.

2. On 26.04.2011 at about 6.40 hours, while the claimant / respondent was driving the Car bearing Registration No.TN-21-AF-5224 at Tharamani 100 feet road, near Raja Chettinadu Hotel, a bus belonging to the appellant transport Corporation, came from the opposite direction, driven by its driver in a rash and negligent manner, dashed against the Car and as a result, the claimant sustained grievous injuries all over his body. He has filed the claim petition claiming Rs.3,00,000/- as compensation.

3. After considering the oral and documentary evidence, the Tribunal held that the accident had occurred only due to the rash and negligent driving of the driver of the



transportation Corporation and awarded a sum of Rs.2,15,000/- with interest at 7.5% per annum. Aggrieved by the same, the appellant Transport Corporation has filed the present appeal.

4. Learned counsel appearing for the appellant/Transport Corporation questioned only the quantum of compensation awarded by the Tribunal and thereby he contended that the amount awarded by the Tribunal is excessive, exorbitant and without any justification. He further submitted that though the driver of the bus belonging to the transport Corporation drove the bus at moderate speed, the accident had occurred only due to the negligence of the driver of the Car, who has driven the Car at zig zag manner and it would have been averted, had the driver of the Car seen the mirror on his both sides. He further submitted that the learned Tribunal ought to have fixed Rs.1000/- per percentage of disability instated of Rs.2000/- per percentage. With these submissions, he prayed for quashing the impugned award passed by the learned Tribunal.

5. This Court is unable to accept the above said contention of the learned counsel for the appellant. On the fateful day i.e. on 26.04.2011 at about 6.40 hours, while the claimant was driving his Car bearing Registration No.TN-21-AF-5224 along the Tharamani 100 feet road, a bus belonging to transportation Corporation driven by its driver in a rash and negligent manner dashed against the Car and as a result, the claimant had sustained grievous injuries. Immediately after the accident, he was admitted in Life Line Multi Specialty Hospital, wherein he took treatment as inpatient from 26.04.2011 to 01.05.2011. At the time of accident, he was aged about 20 years and he was working as a Car Driver in M/s.CNF Automotive India Private Limited, Chennai. According to the claimant, he was earning Rs.10000/- per month. However, he did not produce any document to substantiate such claim, therefore, in the absence of it, the Tribunal fixed Rs.4,500/- as his monthly notional income.

6. It is seen from the discharge summary - Ex.P.2 issued by the Life Line Multi Specialty Hospital that the claimant had sustained fracture of his right shoulder, injuries over eyebrow, left wrist and on the right side face. From Ex.P.5-Disability certificate, it is seen that the the doctor has assessed the disability at 45%, however, since the doctor has assessed the disability after 2 ½ years from the date of accident, the Tribunal has fixed the disability only at 40% and accordingly, by considering the nature of injuries sustained by him as stated above, it has rightly awarded a sum of Rs.80000/- (2000 x 40) towards partial permanent disability by fixing Rs.2,000/- per percentage of disability, therefore, in my view, the same cannot be termed as awarded on higher side.



7. The Tribunal has also further awarded a sum of Rs.13,500/- towards loss of income for three months, which is, in my view, just and reasonable compensation, in view of the fracture of right humerus and dislocation of left wrist and that the period of treatment taken by the claimant. Apart from that, the Tribunal has also awarded compensation under various heads as stated below:

Transportation	: Rs.5000/-
Extra nourishment	: Rs.5000/-
Damage to clothes	: Rs.1000/-
Medical expenses	: Rs.5000/-
Attender charges	: Rs.5000/-
Pain and suffering	: Rs.50,000/-
Loss of amenities	: Rs.50,000/-

In toto, the Tribunal has awarded a sum of Rs.2,15,000/-, which cannot be termed as awarded on higher side, for, at the time of accident, the claimant was just 20 years old and as highlighted above, the claimant had sustained fracture on his right shoulder, injuries on his eyebrow, left wrist and right side face, as seen from the Discharge Summary issued by the Life Line Multi Specialty Hospital, marked as Ex.P.2. Thus, the above said compensation of Rs.2,15,000/- awarded by the Tribunal is hereby confirmed.

8. In fine, for the reasons stated above, the present Civil Miscellaneous Appeal fails and the same is dismissed. The appellant-Transport Corporation is directed to deposit the entire award amount of Rs.2,15,000/- to the credit of MCOP No.1969 of 2011 on the file of the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the entire award amount along with accrued interest therein, by moving appropriate application. No Costs. M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

rkm



To

The V Judge,
The Motor Accident Claims Tribunal,
Court of Small Causes, Chennai,

1 cc to M/s.S.V.Vasanthakumar, Advocate, sr.66713

C.M.A. No.11 of 2015

ppa co
kra 03.06.2016