

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. NO.2659 OF 2015
& M.P.NO.1 OF 2015

The Managing Director,
Tamil Nadu State Transport Corporation
[Villupuram] Ltd.,
31/137, Salamedu,
Villupuram - 605 602. ... Appellant/Respondent

Versus

R.Lakshmanan ... Respondent/Petitioner

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1989, against the judgment and decree dated 06.06.2015 made in M.C.O.P.No.3183 of 2012 on the file of the Motor Accidents Claims Tribunal [IV Court of Small Causes], Chennai.

For Appellant : Mr.P.Paramasiva Doss

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the impugned award passed by the Motor Accidents Claims Tribunal [IV Court of Small Causes], Chennai in M.C.O.P.No.3183 of 2012 dated 06.06.2015, by which, the Tribunal after ascertaining nature of injuries suffered by the claimant, has awarded a sum of Rs.2,02,500/- with future interest at the rate of 7.5%p.a. [except for Rs.10,000/- awarded towards future medical expense] from the date of numbering the petition, namely, 25.07.2012 till the date of realisation [no interest for the dismissal for default period commencing from 25.04.2014 to 10.03.2015]. Aggrieved by the quantum of compensation, the present appeal has been filed.

2.Mr.P.Paramasiva Doss, learned counsel appearing for the Transport Corporation would submit that when there is no solid proof of evidence to show the negligent on the part of the driver, who drove the vehicle, the Tribunal ought not to have brought the negligence within the scope of driving. Adding

further, he would submit that when there is no evidence produced by the claimant as to how long he has taken treatment for the aforesaid injuries, ordering huge amount of Rs.25,000/- under the head extra nourishment is liable to be interfered with, although, he is entitled to get reasonable amount under the head. Continuing his argument, he would submit that without even verifying the criminal case registered against the driver, it is not justified on the part of the Tribunal to hold him liable for the negligence of the accident that has let to the multiple injuries suffered by the claimant. The reason is, the involvement of two other vehicles were also shown in the F.I.R. but the Tribunal without assessing the above facts, has wrongly come to the conclusion that only the driver alone is responsible for the accident.

3. But, this Court is not able to find any error or infirmity in the impugned award. The reason is, the claimant, on the date of accident, namely, on 03.06.2012, at about 8.45 hours, when he was travelling in the TNSTC bus bearing Registration No. TN-25-N-0057 at C.M.B.T. outside road middle area, Koyembedu, Chennai, the said vehicle was driven in a rash and negligent manner at a great high speed, as a result losing its control, hit against another bus. Consequently, the claimant, who was also one of the passengers sustained grievous injuries. When it is an admitted fact that the claimant was travelling as one of the passengers on the fateful day, the offending vehicle was driven by its driver. It is also not in dispute that the injured was admitted at New Hope Indian Specialty Hospital and after taking treatment, he was admitted at Government General Hospital, Chennai. The injury report clearly shows that he suffered the following injuries; "[i] head injury; [ii] cut injury over the body -sutures done; [iii] facial injury; [4] injury over nasal bone; [5] injury over fore head; [6] multiple external and internal injuries all over the body".

4. As the claimant is a plumber said to have earned a sum of Rs.15,000/- per month and it was claimed due to the injuries suffered, he was unable to do any work, the Tribunal considering the accident register marked as Ex.P.2; discharge summary of the claimant marked as Ex.P.3; x-ray marked as Ex.P.4, which clearly supported the case of the claimant, with regard to the multiple injuries suffered by the claimant, the Tribunal has rightly come to the conclusion that he has suffered 25% disability. This has also been corroborated by the disability certificate. Besides, the Doctor was also examined as P.W.2, who has issued the disability certificate certifying 25% disability. Therefore, it is not open to the respondent to argue that Rs.60,000/- has been wrongly and excessively fixed for 25% disability more particularly, when the claimant was travelling as a passenger

has sustained multiple injuries due to the act of the driver of the offending vehicle.

5. In addition thereto, under the conventional heads also the Tribunal has rightly fixed Rs.50,000/- towards pain and suffering; Rs.25,000/- towards extra nourishment; Rs.15,000/- towards Transport Charges; Rs.3,000/- towards damage to clothes; Rs.10,000/- towards attendant charges; Rs.10,000/- towards medical expenses; Rs.10,000/- towards future medical expenses; and Rs.19,500/- towards loss of income. Besides, as the claimant was a plumber as mentioned above, fixing notional monthly income as Rs.6,500/- per month and accordingly reading a finding that for a period of three months, he was not able to work, hence fixing a sum of Rs.19,500/- towards loss of income cannot be found fault with.

6. Considering the facts and circumstances of the case, this Court is not able to see any infirmity or illegality in the impugned award. Accordingly, the impugned award is confirmed and the Civil Miscellaneous Appeal fails and is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

7. Learned counsel for the appellant / Transport Corporation fairly submits that at the time of filing appeal against the impugned award, the appellant has deposited a sum of Rs.25,000/-. Therefore, he is further directed to deposit the entire award amount with proportionate accrued interest and costs, to the credit of M.C.O.P.No.3183 of 2012 on the file of the Motor Accidents Claims Tribunal [IV Court of Small Causes], Chennai, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimant to move an appropriate application before the Tribunal and release the same amount.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS II)

//True Copy//

sri Sub Assistant Registrar
To
The Motor Accidents Claims Tribunal
[IV Court of Small Causes], Chennai.

+1 cc to M/s.P.Paramasivadosh, Advocate, sr.67044

C.M.A. NO.2659 OF 2015
& M.P.NO.1 OF 2015

mp co
kra 29.01.2016