

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.No.3344 of 2014

and

M.P.No.1 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division-II,
Erode.

...Appellant/Third Respondent

vs.

1.Ramasamy
2.Madheswaran (Given up)
3.The Branch Manager, (Given up)
Tamil Nadu State Transport Corporation Ltd.,
Gobi Dippo,
Gobi Taluk.

...Respondents/Petitioner/
1st and 2nd Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.A.C.T.O.P.No.17 of 2006 dated 02.02.2007 passed by the Motor Accident Claims Tribunal cum Additional District Court (Fast Track Court No.2), Gobichettipalayam.

For Appellant : Ms.A.Manjumatha
for Mr.N.Anand

JUDGMENT

The appeal has been preferred by the Transport Corporation fastening the liability on the appellant-Transport Corporation and awarding a sum of Rs.2,13,200 for the injuries sustained by the 1st respondent/claimant in the accident which occurred on 18.07.2004. On seeing the appellant-Transport Corporation bus being driven in a rash

and negligent manner and dashing against the thorn bushes, the 1st respondent/claimant stopped his two wheeler and when the bus crossed him in a narrow route, the 1st respondent/claimant sustained eye injury owing to the thorn bushes. Therefore, he filed the claim petition. On enquiry, the Tribunal found that the bus was driven rash and negligently and awarded a sum of Rs.2,13,200/-.

2. Though the 1st respondent/claimant filed a complaint before the Kadathur Police Station, they did not register the complaint, which compelled the 1st respondent/claimant to file CrI.O.P.No.31528 of 2004 and got a direction and thereafter only, the FIR was registered as per the direction of this Court and the order of this Court was marked as Ex.P6. F.I.R. was marked as Ex.P1. After investigation, the final report, which was marked as Ex.P7, was closed stating that since the width of the road is very narrow, the bus was driven brushing the bushes and the thorn bushes struck the claimant's eye. However, the appellant denied in the counter statement that no such incident occurred and the bus was not involved in the accident. Taking into consideration of Ex.P7-final report, the Tribunal rightly came to the conclusion that the bus was involved in the accident and it was responsible for the injury caused to the 1st respondent/claimant. Moreover, the 1st respondent/claimant P.W.1 and eye witness P.W.2 deposed the manner in which the accident occurred. However, no contra evidence is available. In those circumstances, the Tribunal rightly came to the conclusion that the accident occurred because of the rash and negligent driving of the appellant-Transport Corporation bus. Hence, the said factual finding cannot be interfered with.

3. P.W.3, Doctor deposed that the claimant sustained loss of left eye vision and sustained 40% disability as per Ex.P8 and therefore, the Tribunal determined the disability at 40%. The 1st respondent/claimant is working as a butcher and he would have earned a sum of Rs.100/- per day and therefore, the Tribunal rightly determined the monthly income at Rs.3,000/- and based on his age i.e., 45, the Tribunal rightly applied the multiplier 13 and determined the loss of income in the following manner:

$$3,000 \times 12 \times 40 / 100 \times 13 = 1,87,200/-.$$

4. The Tribunal awarded a sum of Rs.1,000/-, as per Ex.P4 as medical expenses and a sum of Rs.25,000/- was awarded towards pain and suffering. Totally, a sum of Rs.2,13,200/- had been awarded along with interest at 7.5% p.a. The amount awarded by the Tribunal is very reasonable and warrants no interference. Therefore, the

award of Rs.2,13,200/- is confirmed. The appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

5. The appellant-Transport Corporation is directed to deposit the entire amount along with accrued interest and costs, after adjusting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st respondent/claimant is permitted to withdraw the entire amount, after adjusting the amount if any already withdrawn, with accrued interest within a period of one week thereafter.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

vsm

To

The Motor Accident Claims Tribunal
cum Additional District Court,
(Fast Track Court No.2),
Gobichettipalayam.

1 CC to Mr.N.Anand, Advocate SR.No.7826

C.M.A.No.3344 of 2014

GJ (CO)

PSI (23.03.2015)

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