

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2015

CORAM :

THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

C.M.A. No. 2588 of 2006

R.Rajagopal Chetty

... Appellant/Petitioner

vs.

The Managing Director,
Tamilnadu State Transport Corporation
(Salem Division No.II) Ltd.,
Bharathipuram, Dharmapuri-5. ... Respondent/ Respondent

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Decree and Judgment made in M.C.O.P No.957 of 2004 dated 11.02.2005 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate No.2) [Incharge] Dharmapuri at Krishnagiri.

For appellant : Mr. C. Prabhakaran
For respondent : Mr. S.Sairaman

JUDGMENT

The claimant is the appellant herein. For the sake of convenience the parties are referred to as per their rank before the Tribunal.

2. The present appeal is filed against the order of the Tribunal thereby rejecting his Claim Petition mainly on the ground that there is no accident taken place and the driver of the State Transport Corporation bus is not responsible for the accident. The main grievance raised herein, by the claimant is that the involvement of the Transport Corporation bus and TVS 50 vehicle ridden by the petitioner claimant having been admitted in the counter filed by the respondent Corporation and by their

own driver as RW-1 in the witness box, the rejection of the claim petition on the ground as above referred to, by the Tribunal, is contrary to the evidence and it is indicative of total non-application of mind by the Tribunal. This Court finds greater force in the argument advanced on the side of the petitioner claimant.

3. The claimant has come forward with a specific case that an occurrence took place involving State Transport bus and TVS 50 ridden by him and the accident took place in the manner as explained in paragraph 23(b) of the Claim Petition. It may be true that the respondent State Transport Corporation in their counter has raised a plea denying the factum of the accident. But, the respondent Transport Corporation has at the same time in paragraph 6, has narrated their version regarding the manner of the accident, as per which the driver of the State Transport Corporation was not responsible for the accident but only the petitioner, who was the rider of TVS 50 vehicle was responsible for the accident. It is also deposed so by their own driver as RW-1 in the witness box. That being the inconsistent nature of the pleadings and evidence raised on the side of the respondent, the Trial Court without duly considering the same, erred in placing undue importance on Ex.R1/Police final report resulting in erroneous rejection of the claim.

4. This Court on the basis of the available evidence regarding the manner of the accident, is of the considered view that the driver of the State Transport Corporation bus is responsible for the cause of the accident and the respondent/State Transport Corporation is hence vicariously liable to pay the compensation to the injured claimant.

5. Regarding the quantum of compensation though the claimant has made a total claim of Rs.2,13,450/- under various heads, the same is restricted to Rs.1,00,000/-. The petitioner except examining himself as PW-1 and producing Ex.P1- FIR, Ex.P2 - Wound Certificate, has not produced any other documents to show the nature of injuries sustained by him and the duration of treatment undergone by him, the medical expenses incurred and the permanent partial disability sustained by him. There is also no evidence to prove his self occupation and the monthly income derived from the same. However, this Court considering the period during which the accident had taken place and considering the nature of the simple injuries sustained by the petitioner and the pain and sufferings that would have been suffered by him and the contributory negligence on his part is inclined to award a sum of Rs.25,000/- as compensation. The same is payable with interest at 7.5% from the date of petition till the date of payment.

6. In the result, the Civil Miscellaneous Appeal is allowed by awarding a compensation of Rs.25,000/- payable with interest at 7.5% per annum, from the date of petition till the date of deposit. Time for deposit of the amount by the respondent is eight weeks from the date of receipt of a copy of this judgment. On such deposit, the petitioner claimant is permitted to withdraw the same, by filing due cheque petition before the Tribunal. No costs.

sd/-
ASSISTANT REGISTRAR (CS-IV)

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

avr

To

The Motor Accident Claims Tribunal
Additional Subordinate Court,
Mayiladuthurai.

+1 CC to Mr.C. Prabhakaran Advocate. SR.NO. 43307

+1 CC to Mr.S.Sairaman Advocate. SR.NO. 43622

C.M.A. No. 2588 of 2006

CO-CTK
JD 19/10/2015

सत्यमेव जयते

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