

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1053 of 2016
and
CMP.No.7988 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Bharathipuram, Dharmapuri.

... Appellant/Respondent

Vs.

R.Sekar

... Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 30.09.2011 made in M.C.O.P No.669 of 2009, on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri.

For Appellant : Mr. D.Venkatachalam

For Respondent :

J U D G M E N T

The Transport Corporation has come up with this appeal challenging the negligence and quantum of compensation awarded by the Tribunal.

2. On 20.12.2008, while the injured claimant was waiting for the bus in Dharmapuri Town Bus Stand, the appellant Transport Corporation bus bearing Registration No.TN 29 N 1567, driven in a rash and reckless manner, dashed against the claimant and ran over his left leg. Due to the accident, the claimant fell down and sustained grievous injuries and multiple injuries all over his body. Hence, he filed a Claim Petition before the Tribunal seeking a sum of Rs.10,00,000/- as compensation. After analyzing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.3,09,350/- as compensation, under the following heads:

Heads	Amount
Permanent Disability	Rs. 80,000.00
Pain and Sufferings	Rs. 50,000.00
Transport Expenses	Rs. 5,000.00
Extra Nourishment	Rs. 5,000.00
Loss of Income	Rs. 18,000.00
Medical Expenses	Rs.1,51,350.00
Total	Rs.3,09,350.00

3. Learned counsel appearing for the appellant/Transport Corporation would mainly contend that the Tribunal has rejected the deposition of RW3, the driver of the appellant Transport Corporation bus, corroborated by the evidences of RW1 and RW2, eye witnesses, narrating that while the injured claimant along with another lady came running alongside the bus, trying to board and get a seat in the bus, he slipped and fell down hitting the said lady. He further contended that the F.I.R. filed against the driver of the appellant Transport Corporation bus was also closed as 'mistake of fact'. He would further contend that the Tribunal is erroneous in fixing the disability of the injured claimant at 40%, when the injuries sustained by the claimant is not grievous in nature.

4. It is found from the records that the Tribunal has passed the award based on documentary evidences and depositions of the witnesses. It has been proved before the Tribunal that the driver of the appellant Corporation bus is responsible for the accident and hence the liability has been fixed on the appellant Transport Corporation. As per the medical reports, it is clear that the injured claimant has suffered major crush injury on the left leg and foot, compound dislocation of first MTP and total amputation of second and third toe at MP joint level, bimalleolar fracture on the ankle etc., and hence the injured claimant is unable to walk independently. Considering the nature of injuries, the Doctor fixed his disability at 50%. However, the Tribunal has considered only 40% as the disability suffered by the claimant. Though it is deposed by the claimant that he was working as a Maistry, in the absence of documentary proof, the Tribunal has fixed his monthly income only at Rs.3000/- per month. Hence, the award granted by the Tribunal is fair and reasonable and needs no interference.

5. This Court considered the submissions made by the learned counsel for the appellant and perused the materials available on record. Since the respondent/ claimant will not be prejudiced with the result of this Appeal, the main case

itself is disposed of at the stage of admission itself, without serving notice to them.

6. A perusal of the records would show that the injured claimant has suffered grievous crush injuries in the accident and underwent treatment in Coimbatore Ganga Hospital, from 21.12.2008 to 13.01.2009. It is evidenced from the reports that the injured claimant has undergone surgery three times and inspite of the same, it is stated that he is unable to walk independently. Though the Doctor assessed the partial permanent disability of the injured claimant as 50%, the Tribunal has accepted only 40% disability. In the absence of any documentary evidence, the Tribunal has fixed only a minimum sum of Rs.3000/- as the monthly income of the injured claimant and in the absence of proof of avocation the Tribunal has not adopted the multiplier method to award compensation towards permanent disability. The compensation granted by the Tribunal under the other heads, are also fair and reasonable and hence, this Court finds that the quantum of compensation is not excessive and the same is confirmed.

7. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. The appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest, less the amount already deposited, if any, to the credit of M.A.C.T.O.P.No.669 of 2009 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Dharmapuri, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimant in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Dharmapuri.

C.M.A.No.1053 of 2016
and CMP.No.7988 of 2016

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