

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

C.M.A.No.1086 of 2016  
and C.M.P.No.8065 of 2016

The Managing Director,  
3/137, Salamedu, Vazhuthareddy,  
Tamil Nadu State Transport Corporation Ltd.,  
Villupuram. ... Appellant/Respondent

Vs.

K.Murugaiyan ... Respondent/Petitioner

Civil Miscellaneous Appeal preferred against the Judgment and decree dated 28.03.2014 made in M.C.O.P.No.2104 of 2010 on the file of the Motor Accident Claims Tribunal, Cuddalore [Principal Subordinate Court, Cuddalore].

For Appellant : Mr.P.Paramasivados

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the judgment and decree dated 28.03.2014 made in M.C.O.P.No.2104 of 2010 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Cuddalore.

2. On 30.10.2009 at 12.30 p.m., when the claimant/respondent was riding his moped bearing Registration No.TN-31-AW-5297 from East to West of Chidambaram-Keerapalayam Road, the driver of the appellant/Transport Corporation bus bearing Registration No.TN-32-N-1898 without any destination board or L-board, which was moving in front of the claimant's moped, suddenly stopped the vehicle in the middle of the road, without any sign or indication and so, the claimant's vehicle hit the appellant/Transport Corporation bus, thereby the claimant/respondent sustained grievous injuries. Claiming compensation to the tune of Rs.10,00,000/-, the claimant/respondent approached the Tribunal by filing M.C.O.P.No.2104 of 2010.

3. Based on the oral evidence of the witnesses and the documentary evidence, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:

| Sl.No | Head                                    | Amount granted by the Tribunal |
|-------|-----------------------------------------|--------------------------------|
| 1     | Disability of 45% [3300 x 12 x 9 x 45%] | Rs.1,60,380/-                  |
| 2     | Medical expenses                        | Rs.3,39,466/-                  |
| 3     | Loss of income for 2 months [3300 x 3]  | Rs.6,600/-                     |
| 4     | Transportation charges                  | Rs.5,000/-                     |
| 5     | Pain and suffering                      | Rs.5,000/-                     |
| 6     | Extra nourishment                       | Rs.20,000/-                    |
|       | Total                                   | Rs.5,36,446/-                  |

Aggrieved over the said award, the Transport Corporation has come forward with this appeal.

4. Heard the learned counsel for the appellant and perused the materials available on record.

5. In an accident that took place on 30.10.2009, a 58 year old man, who was working as an agricultural coolie, sustained injuries all over the body and fracture, due to which, he is unable to continue his avocation. The Doctor assessed his disability at 45%. The Tribunal, after considering the evidence on record and also taking note of the evidence of P.W.2 Doctor and scrutinizing all the exhibits viz., Exs.P1 to P7, awarded a sum of Rs.5,36,446/- as compensation to the claimant, which according to the appellant/ Transport Corporation is excessive.

6. A glance of the award would go to show that the Tribunal has granted compensation for the loss of income and also for the percentage of disability. Taking note of the nature of injuries sustained by the claimant, this Court is of the view that the percentage of disability fixed at 45% cannot be said to be excessive as contended by the appellant/Transport Corporation. This Court is also of the view that the compensation granted by the Tribunal under all other heads are reasonable. That apart, the percentage of interest granted by the Tribunal is also 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. It is made clear that if no amount is deposited so far, the appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.2104 of 2010 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Cuddalore, within a period of four 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 closed.

8. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016, scrupulously.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To  
Principal Subordinate Judge,  
(The Motor Accident Claims Tribunal),  
Cuddalore.

+lcc to Mr.Ramya V.Rao, Advocate Sr.27941

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