

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1135 of 2016
& CMP.No.8588 of 2016

The Managing Director
Tamil Nadu State Express Transport
Corporation Limited,
Pallavan Salai,
Chennai.

... Appellant/Respondent

vs.

Raman

...Respondent/Petitioner

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 26.03.2015 passed in M.C.O.P.No.2220 of 2012 on the file of the Motor Accidents Claims Tribunal, VI Small Causes Court, Chennai.

For Appellant : Mr.K.J.Sivakumar

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, VI Small Causes Court, Chennai, in M.C.O.P.No.2220 of 2012.

2. This is a case of injury. In an accident that took place on 11.09.2011 at 5.00a.m., when the claimant was riding his bullock cart which was loaded with sand, a bus bearing Registration No.TN-01-N-7065 driven by its driver in a rash and negligent manner, dashed against the bullock cart, due to which the claimant sustained fracture and grievous injuries on his right leg and left leg. Immediately after the accident, he was taken to Government Hospital, Kancheepuram for treatment. He filed a claim petition before the Tribunal claiming compensation to the tune of Rs.3,00,000/-.

3. The Tribunal, after analysing the materials available on record held that the accident had occurred due to negligent act of the driver of the respondent Corporation and granted a sum of Rs.2,99,280/- [rounded off to Rs.2,99,300/-] as compensation. Aggrieved over the same, the Corporation is before this Court.

4. According to the claimant, he was driving the bullock cart very carefully, and only the driver of the appellant Transport Corporation bus drove the bus in a rash and negligent manner and hit against him. The claimant is aged about 49 years and a farmer by profession.

5. The learned counsel appearing for the Transport Corporation contended that the driver of the Bus was no way responsible for the accident. He further contended that in the absence of any proof income, the Tribunal erred in fixing the notional income at Rs.9,000/- per month. In view of the judgment in Syed Sadiq V. Divisional Manager, United India Insurance Co. Ltd reported in 2014 (1) TN MAC 459 (SC), in respect of a vegetable vendor, who sustained injuries in an accident which occurred in 2008, Rs.6,500/- was determined as the monthly income. Taking note of the Syed's case referred to above, since the accident in this case had occurred in the year 2011, in the absence of any proof, the Tribunal has committed an error in fixing monthly income at Rs.9,000/-. Hence, the learned counsel for the appellant seeks modification in the award.

6. A perusal of the award would reveal that the Tribunal has elaborately discussed the negligent aspect and gone through the entire evidence on record. Since the claimant had suffered fracture on his shoulder it which would affect his earning capacity, Therefore, the compensation granted by the Tribunal, in my opinion cannot be said to be excessive.

7. In view of the above, I do not find any reason to interfere with the award of the Tribunal. Hence the appeal is dismissed. No costs. Connected miscellaneous petition is closed.

8. The Appellant Transport Corporation is directed to deposit the entire award amount together with accrued interest @ 7.5% per annum from the date of claim petition, before the Tribunal, to the credit of M.C.O.P.No.2220 of 2012 on the file of the Motor Accidents Claims Tribunal, VI Small Causes Court, Chennai, 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.

9. 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(V)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal
VI Small Causes Court, Chennai.

C.M.A.No.1135 of 2016

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