

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1031 of 2016

and

CMP.No.7961 of 2016

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

... Appellant/Respondent

Vs.

Sathiya @ Sathiya Prabha

... Respondent/Claimant

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 27.07.2012 made in M.C.O.P No.115 of 2006, on the file of the Motor Accident Claims Tribunal, Additional Subordinate Judge, Tiruvannamalai.

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. In an accident which occurred on 02.01.2005, the appellant Transport Corporation bus dashed against a lorry coming on the opposite side, on the Hosur Bangalore Road, near the Hosur Sipcot Jujuwadi Checkpost, the claimant sustained multiple injuries on her head, right leg knee, right hand knee and injuries all over her body. Hence, she filed a Claim Petition before the Tribunal seeking a sum of Rs.2,00,000/- as compensation. After analyzing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.65,000/- as compensation, under the following heads:

Heads	Amount
Permanent Disability	Rs. 50,000.00
Attender Charges	Rs. 2,000.00
Extra Nourishment	Rs. 2,000.00
Transportation	Rs. 2,000.00
Pain and Sufferings	Rs. 9,000.00
Total	Rs. 65,000.00

3. Learned counsel appearing for the appellant/Transport Corporation would mainly contend that the Tribunal has not considered the F.I.R filed against the driver of the lorry, which caused the accident and that the entire liability should have been fixed on the lorry and not on the appellant Transport Corporation bus. He would further contend that the Disability of 25% assessed by the Doctor ought not have been agreed by the Tribunal, when the injuries sustained by the claimant is not grievous in nature. The Tribunal has also erred by considering the evidence of PW1, when it is not supported by documentary evidences.

4. It is found from the records that the Tribunal has passed the award based on the evidences and depositions of the claimant, Doctor and the driver of the appellant Corporation bus. 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. It has been stated by the Doctor that due to the injuries sustained by the claimant on the nose and the other grievous injuries, there is partial permanent disability of 25%.

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 is not going to 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 was aged 17 years and was a student at the time of accident. Moreover, she has taken treatment in three hospitals, has suffered a major injury on the nose, resulting in breathing problem. Due to the injury sustained by her on the right hand, she is unable to use her right hand for writing. Hence, the 25% disability assessed by the Doctor has been rightly accepted by the Tribunal. 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.C.O.P.No.115 of 2006 on the file of the Motor Accidents Claims Tribunal, Additional Subordinate Judge, Tiruvannamalai, 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 C.M.P.No.7961 of 2016 is also closed.

avr

-s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

To

The Additional Subordinate Judge,
Motor Accidents Claims Tribunal,
Tiruvannamalai.

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C.M.A.No.1031 of 2016
and
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