

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1042 of 2016

and

C.M.P.No.7976 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Kumbakonam Division.

... Appellant/Respondent

Vs.

Seemapathi

... Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 28.11.2012 made in M.C.O.P No.180 of 2008 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Ariyalur.

For Appellant : Mr. D.Venkatachalam

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 05.10.2011, when the injured claimant was travelling in the appellant Transport Corporation bus bearing Registration No. TN 49 N 1586, plying from Thiruvaiyaru to Kabeestharam, near Pilliar koil bus stop, the driver of the bus applied sudden brake and the claimant fell down from the bus and sustained injuries on the back side of her head and all over the body. Hence, she 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.2,35,000/- as compensation, under the following heads:

Heads	Amount
Injuries and Disability	Rs. 1,44,000.00
Pain and Sufferings	Rs. 50,000.00
Medical Expenses	Rs. 31,000.00
Transport Expenses	Rs. 5,000.00
Extra Nourishment	Rs. 5,000.00
Total	Rs. 2,35,000.00

3. Learned counsel appearing for the appellant/Transport Corporation would mainly contend that while the claimant boarded into bus, which was slowly proceeding, she lost balance and fell down and thus sustained injuries and hence the entire negligence is on the part of the injured claimant. He further contended that the Tribunal has failed to consider the counter filed by the Transport Corporation. The Tribunal has erroneously granted higher compensation, accepting 72% disability, assessed by the Doctor.

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. Due to the accident, the claimant has lost her speaking power, during depositions before the Tribunal her evidence was recorded and attested by the Headmistress of Deaf and Dumb Government High School, Thanjavur. Considering her head injury and loss of speaking power, the Doctor assessed the disability of the injured claimant as 72%, which has also been accepted by the Tribunal. Hence, the compensation 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 was taking treatment in the Government Hospital, Thanjavur as in-patient from 05.10.2007 to 07.11.2007. Due to the head injury suffered by her, she lost her speaking power and the same was found while recording evidences, by the Tribunal.

It is evident from the records that the claimant has suffered grievous injuries in the accident and has spent huge sum of money for recovery. Hence, the Tribunal has accepted the disability of the injured claimant at 72% and has rightly calculated the compensation at Rs.2000/- per percentage and has awarded a sum of Rs.1,44,000/-. The compensation granted by the Tribunal under the other heads, are also fair and reasonable and needs no interference.

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.180 of 2008 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Ariyalur, 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. is also closed.
avr

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1.The Additional District Court,
Motor Accidents Claims Tribunal,
Ariyalur.

2.The Section Officer,
VR.Section, High Court,
Madas.

Copy to:

The Managing Director, Tamil Nadu State Transport Corporation Ltd
Kumbakonam Division, Kumbakonam.

rsk(co)
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