

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.124 of 2016

and

CMP No.1116 of 2016

The General Manager,
Tamil Nadu State Transport
Corporation (Villupuram) Limited,
Tiruvannamalai Division,
Tiruvannamalai. ... Appellant/Respondent

Versus

Murugan ... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under section 173 of the Motor Vehicles Act against the judgment and decree dated 27.11.13 made in M.C.O.P.No.69 of 2011 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Cheyyar.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

The General Manager, Tamilnadu State Transport Corporation, Villupuram, has brought this appeal against the award of Rs.1,53,200/- passed by the learned Tribunal for the grievous injuries sustained by the claimant/respondent herein.

2.Learned counsel for the appellant/Transport Corporation would submit that the learned Tribunal while going through the evidence of the injured, in the absence of corroboration with sufficient evidence ought not to have considered the evidence of P.W.1 for the simple reason that his evidence is not corroborated by any other independent evidence and he would further submit that the driver of the bus involved in the accident came and deposed before this court the manner of the accident which took place to prove that there is no negligence on his part. The learned Tribunal again failed to consider the evidence of R.W.1 who is the driver of the bus and also

competent person to speak about the accident. On the basis of mere registration of FIR, the learned Tribunal ought not to have concluded that the negligence is on the part driver of the offending vehicle. Therefore, the impugned award is liable to be set aside.

3.This court hardly finds justification or merits in the appeal for the reasons, firstly, when the claimant was travelling as pillion rider of Suzuki Max two wheeler bearing Registration No.TN 21/U.9578 belonging to Kuppan on 20.07.2010 at about 7.30 hours, the offending bus belonging to the Transport Corporation bearing Registration TN 32 N 2064 from Cheyyar to Kanchipuram, was proceeding near Kiliyathur koot road and the driver of the bus has driven the bus in rash and negligent manner and dashed against the claimant's vehicle thereby the claimant sustained grievous injuries. Immediately thereafter, an FIR was registered in Crime No.941 of 2010 on the file of Cheyyar Police station marked as Ex.P1. The injured was taken to the Government Hospital, Chennai for treatment as inpatient from 20.07.2010 to 05.08.2010. Ex.P4 discharge summary clearly shows that he had taken treatment in Government Hospital from 16.11.2010 to 09.12.2010 and he had suffered implant failure. Ex.P5 Medical Bills, Ex.P6 disability certificate issued by P.W.2 Dr.Shanmugasundaram also clearly speaks about the multiple injuries at the time of accident. Considering the medical record and also the age of the injured viz., 30 years on the date of accident, agreeing with the claim of the injured that he was working as agriculture labour earning a sum of Rs.7000 per month, the learned Tribunal has fixed Rs.4500 as notional monthly income. As he had suffered multiple injuries for which he has taken treatment as inpatient from 20.07.2010 to 05.08.2010 and again taken treatment from 16.11.2010 to 09.12.2010 and also suffered implant failure due to the injuries sustained, a sum of Rs.22,500/- was awarded for the loss of income for the period of 5 months at the rate of RS.4500 p.m. Towards pain and suffering, the learned Tribunal awarded Rs.30,000/-. Considering the evidence of Dr.Shanmugasundaram P.W.2, taking support from the disability certificate Ex.P.8, the learned Tribunal has fixed the disability at 40% mentioning that he suffered 45% disability and awarded Rs.80,000/- at the rate of Rs.2000/- per percentage. The learned Tribunal awarded Rs.5000/- towards transportation to hospital, Rs.5700/- towards medical expenses and Rs.10,000/- towards extra nourishment. In my considered opinion, the award of the Tribunal is just and reasonable which does not call for interference, hence, the civil miscellaneous appeal fails and the same is dismissed. No costs. The connected miscellaneous petition is also dismissed.

4.The appellant Transport corporation is directed to deposit the award amount less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this order. It is open to the claimants to withdraw the amount by moving the appropriate application before the Tribunal.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vri

To

The Motor Accident Claims Tribunal,
Subordinate Judge,
Cheyyar.

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.5252

C.M.A No.124 of 2016

RSY(CO)
CA(22/02/2016)



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