

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 08.09.2016

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A. No.1774 of 2011

Chellasamy

.. Appellant

Vs

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Trichy. .. Respondent

Prayer: This Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 15.09.2010, made in MCOP No.73/2009, on the file of the Principal Subordinate Judge, Vridhachalam.

For appellant : Mr.S.Udhayakumar

For Respondent : Mr.V.S.Vijayveliappan

JUDGMENT

Aggrieved by the award dated 15.09.2010, made in MCOP No.73/2009, on the file of the Principal Subordinate Judge (Motor Accidents Claims Tribunal), Vridhachalam, the appellant/claimant has preferred the present appeal seeking for enhancement of the compensation.

2. On 30.01.2009, while the appellant/claimant was travelling in a bus bearing Registration No.TN.45-N-2904 belonging to the respondent Corporation, the driver of the bus stopped the bus at Vijayamanagaram Village to unload the passengers and in that process, before the claimant alighting from the bus, the driver of the bus moved the bus in a rash and negligent manner and as a result, right foot of the claimant got broken as the back wheel of the bus run-over against it. Immediately after the accident, he was taken to Government Hospital, vridhachalam, where, after the first-aid, he was referred to the JIMPER Hospital, Pondicherry, for better treatment on 30.01.2009. He took treatment for one day and then he was referred to Stanley Hospital, Chennai, where he took treatment as inpatient for about three months i.e. from 31.01.2009 to 31.03.2009.

3. After considering the oral and documentary evidence, the Tribunal, by holding that the accident had occurred only due to the rash and negligent driving of the driver of the respondent Corporation, awarded a sum of Rs.1,42,000/- as compensation to the claimant with interest at 7.5% per annum from the date of petition. Aggrieved by that award, the claimant has filed the present appeal for enhancement. Though in the claim petition he claimed a sum of Rs.3,00,000/- as compensation, now in the appeal he restricted the claim seeking Rs.1 lakh compensation over and above the compensation awarded by the Court below.

4. Learned counsel appearing for the claimant-appellant, by questioning the quantum of compensation awarded by the Tribunal, submitted that the Tribunal ought to have awarded compensation as claimed by the claimant and the amount awarded under various heads is very low and the Tribunal has not followed the principles of assessment before passing the award. He further submitted that the amount awarded by the Tribunal is very low and meagre and seeks to enhance the compensation. It is further submitted that though the claimant was admitted in Stanley hospital for about three months as inpatient as stated above, the same was not taken note of by the Court below, and he is even now taking treatment. Therefore, on this basis, he prayed for enhancement of the compensation.

5. Learned counsel appearing for the respondent/Transport Corporation submitted that the Tribunal had considered all the relevant materials and evidence on record and came to the right conclusion and awarded a just, fair and reasonable compensation. Hence, the order of the Tribunal is in accordance with law and the same has to be confirmed.

6. Heard the learned counsel appearing on either side and perused the materials available before this Court.

7. It is an admitted fact that the claimant/appellant herein met with an accident on 30.01.2009 at about 1.30 hrs., while he was travelling in a bus bearing Registration No.TN-45-N-2904 belonging to the respondent Corporation, whereby his right foot got broken while he was alighting from the bus as the back wheel of the bus ran over it. Immediately after the accident, he was taken to Government Hospital, Virudhachalam, where, after the first-aid, he was referred to the JIPMER Hospital, Pondicherry, on 30.01.2009 and from there, he was again referred to Stanley Hospital, Chennai, for better treatment and he took treatment for about three months in the said hospital as inpatient from 31.01.2009 to 31.03.2009.

8. From Exs.P3 to P7 (accident register, medical certificate given by Stanley hospital, photographs showing the place of injury of the claimant, disability certificate and X-

ray), it is seen that the claimant has suffered the following injuries:

- i. Three toes amputated right side
- ii. Multiple crush injury over right foot
- iii. Fracture on right thigh bone
- iv. Injury over both knees
- v. Injury over both elbow
- vi. Injury over forehead and scalp

It is stated that at the time of accident, the claimant was coolie and agriculturist and was earning a sum of Rs.6,000/- per month, however, the Court below, without taking note of the nature of injuries sustained by him and also without considering the period on which the claimant took treatment for the injuries sustained, has just merely awarded a sum of Rs.1,00,000/- towards 50% of partial permanent disability, Rs.20,000/- towards pain and sufferings, Rs.5,000/- each towards medical expenditure and transport charges, Rs.3,000/- towards attender charges and Rs.9,000/- towards loss of income, and in toto, the Court below has awarded a sum of Rs.1,42,000/-, which, in my view, are very meagre amount as the claimant took treatment for about three months as inpatient in Stanly Hospital, Chennai, and he is even now taking for the above said injuries caused due to the rash and negligent driving of the driver of the respondent Corporation. This Court is also able to see the nature of injuries sustained by him from the photographs produced by the learned counsel for the appellant and from the said photographs, it could be seen that the right foot of the claimant got crushed. Thus, for the reasons stated above, this Court is inclined to award a sum of Rs.2,42,000/- as against Rs.1,42,000/- awarded by the Court below as compensation.

9. In fine, the respondent Transport Corporation is directed to deposit the entire award amount of Rs.2,42,000/-, along with interest as ordered by the Court below, if not already deposited, to the credit of M.C.O.P.No.73 of 2009, on the file of the Principal Subordinate Judge (Motor Accidents Claims Tribunal), Vridhachalam, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant/appellant herein is permitted to withdraw the entire amount lying in the said credit. Accordingly, the Civil Miscellaneous Application is allowed. No Costs.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

1. Principal Subordinate Judge (Motor Accidents Claims Tribunal), Vridhachalam.

2.The Section Officer,
V.R.Section, High Court, Madras.

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