

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2029 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
Salamedu, Vazhuthareddy
Villupuram

... Appellant/Respondent

-Vs-

S.Sivapakkiyam

... Respondent/Petitioner

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 06.03.2014 made in M.C.O.P.No.827 of 2008 on the file of the Motor Accidents Claims Tribunal, II Additional Subordinate Judge, Cuddalore.

For Appellant : Mr.K.J.Sivakumar

For Respondent : Mr.A.N.Viswanatha Rao

JUDGMENT

The Transport Corporation, assailing the impugned award for a sum of Rs.1,85,000/- granted in favour of the respondent-S.Sivapakkiyam for the grievous injuries sustained by her to the extent of 50% disability, has come to this Court challenging the quantum of compensation.

2. Heard the learned counsel for the appellant and the learned counsel for the respondent.

3. The respondent, aged about 30 years, was a flower merchant and self employed. While so, she boarded the bus belonging to the appellant Transport Corporation bearing Registration No.TN 32 N 2255 on 12.8.2007 at about 7.00 A.M., at Parangipettai bus stop. It is at this time the driver of the bus suddenly moved the vehicle at high speed in a rash and negligent manner without making any caution and also without following the traffic rules and regulations, as a result the respondent/passenger was thrown out of the bus causing grievous injuries and multiple fractures all over her

body and head. She was taken to the Government Hospital at Parangipettai. After finding that she has suffered multiple fractures, on the opinion of the doctors, she was again transferred to Government Hospital, Cuddalore for advance treatment. Immediately after the unfortunate accident, First Information Report was also filed implicating the driver of the offending vehicle as the cause for the accident. The Tribunal, considering the two vital aspects that the Transport Corporation had miserably failed to produce the driver of the offending vehicle, which has made the Court to presume that the driver was rash and negligent in driving the said bus resulting in the accident, as a result the respondent/injured sustained injuries, has given a clear finding with regard to the negligence of the driver and also accepting the deposition of the doctor, who was examined as P.W.2, that there was a fracture in the right femur bone of the injured and as a result of the accident she has sustained injury to the extent of 50%, which is also supported by Ex.P3-disability certificate; that a plate was also fixed along with screws in the respondent's right thigh due to the fracture, it has fixed only Rs.2,000/- for each per percentage of disability and awarded Rs.1,00,000/- towards the 50% disability caused to the respondent. Moreover, a sum of Rs.25,000/- has been fixed towards pain and sufferings. This apart, Rs.15,000/- has been awarded towards extra nourishment and another Rs.15,000/- towards transportation and other incidental expenses has been awarded. Moreover, Rs.10,000/- alone has been given towards future medical expenses and another Rs.20,000/- towards loss of amenities in her life. Therefore, this Court is not able to find any major infirmity or error in the award of the Tribunal. Hence, the civil miscellaneous appeal is dismissed confirming the award of the Tribunal. Consequently, C.M.P.No.14823 of 2016 is also dismissed. No costs.

4. The appellant is directed to deposit the entire award amount along with interest to the credit of the M.C.O.P.No.827 of 2008 on the file of the Motor Accidents Claims Tribunal (II Additional Subordinate Judge), Cuddalore within a period of four weeks from the date of receipt of a copy of this order and on such deposit, it is for the claimant to withdraw the same by moving appropriate application before the Tribunal.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ss

To

The II Additional Subordinate Judge
Motor Accidents Claims Tribunal
Cuddalore.

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.51795

C.M.A.No.2029 of 2016

VGI (CO)
CA(25/10/2016)



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