

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2030 of 2016

The Managing Director
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited
Trichy Region, Trichy .. Appellant/Ist Respondent

-Vs-

1. N.Sri Ram
2. E.M.Rajendran
3. The Oriental Insurance Company Limited
represented by its Divisional Manager
Divisional Office, Divya Towers
II Floor West Part
Fort Main Road, Salem 636 001 .. Respondents/Petitioners &
Respondents 2 & 3

Memorandum of Grounds of Civil Miscellaneous Appeal under
Section 173 of the Motor Vehicles Act, 1988 against the award
and decree dated 07.07.2015 made in M.C.O.P.No.1457 of 2013 on
the file of the Motor Accidents Claims Tribunal, Special
Subordinate Judge, Krishnagiri.

For Appellant :: Mr.D.Venkatachalam

JUDGMENT

The Managing Director of Tamil Nadu State Transport Corporation (Kumbakonam) Limited, Trichy Region, Trichy has approached this Court aggrieved over the direction of the Tribunal for payment of 50% of compensation of Rs.3,53,667/-, as against the claim of Rs.5,00,000/-, in favour of the first respondent N.Sri Ram, who was a first year student of M.Sc., at Bishop College, Trichy for the multiple injuries sustained by him while travelling in the bus belonging to the appellant Corporation bearing Registration No.TN 45 N 2408 from Trichy to Salem on 31.3.2010 at about 16.40 hours in the Namakkal to Trichy Road next to N.Pudukkottai near KKP Spinning Mill, Mohanoor Police Station.

2. Heard the learned counsel for the appellant.

3. The claim petition was filed by the first respondent on the ground that when he was travelling in the bus belonging to the appellant Corporation from Trichy to Salem on 31.3.2010, the said bus was driven by its driver Mr.T.Elangovan and at about 16.40 hours, when the bus was proceeding in Namakkal-Trichy road towards Salem and when it reached KKP Spinning Mill next to N.Pudupatti, the offending lorry bearing Registration No.TN 27 L 8149 belonging to one E.M.Rajendran, the second respondent herein, insured with the Oriental Insurance Company Limited, the third respondent herein, was coming in the opposite direction and due to the rash and negligent driving of both the drivers of TNSTC bus and the lorry owned by the third respondent, both the vehicles dashed against each other. Due to the accident, the claimant sustained grievous injuries. Immediately after the accident, he was taken to Arvind Hospital, Namakkal and admitted as in-patient for ten days from 31.3.2010. Since then, he was taking continuous treatment even in private hospitals at Uthangarai and Trichy. After sustaining disablement, he has made the claim.

4. The Tribunal, finding fault with both the drivers of the Transport Corporation and the lorry owned by the third respondent, has apportioned the liability to 50% on the part of the Transport Corporation and 50% on the third respondent, being the insurer of the lorry owned by the second respondent. With regard to the nature of injuries sustained by the claimant, the Tribunal, taking note of Ex.P2, wound certificate issued by Aravind Hospital, Namakkal, which revealed the highly contaminated shattered right elbow with open wound and also in the right elbow joint, loss of bone in the radial side of humerus and fracture of elbow joint, the soft tissue totally crushed 7'x4'x3½' and extensive loss of soft tissue with open wound upper third of right forearm 3'x3'x3½' posterior, contusion over right arm, right wrist and there was a deep cut injury exposing thereon muscle of right hand 4'x3'x2' suffered by the injured, accepting the discharge summary issued by Arvind Hospital, Namakkal marked as Ex.P7 and also being satisfied that the injured suffered crush injury on his right forearm and also yet another compound mutated fracture of right elbow, fixing the permanent disability at 50%, has rightly held that for each percentage of disability, the injured was entitled to get Rs.3,000/-. On this score, a sum of Rs.1,50,000/- has been awarded. For pain and suffering Rs.30,000/- has been awarded. Rs.73,167/- has been given for medical expenses as per Ex.P6. Since the injured had suffered multiple injuries and had also taken treatment, another Rs.30,000/- was fixed towards future medical expenses and Rs.20,000/- towards transportation. For loss of amenities and discomfort of elbow, Rs.30,000/- has been awarded. It may be mentioned herein that the first respondent N.Sri Ram was travelling in the bus belonging to the appellant

Corporation on the fateful day and only due to the careless and rash driving of the vehicles by the drivers of the Transport Corporation and the second respondent, he had unnecessarily suffered 50% disability. Therefore, this Court is not able to find any infirmity in the impugned award. Accordingly, the civil miscellaneous appeal fails and the same is dismissed confirming the award of the Tribunal. Needless to mention that the appellant shall deposit its liability of 50% of the compensation as ordered by the Tribunal along with interest to the credit of the M.C.O.P.No.1457 of 2013 on the file of the Motor Accidents Claims Tribunal (Special Subordinate Judge), Krishnagiri, within a period of three weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimant to withdraw the same by making a proper application before the Tribunal. Consequently, C.M.P.No.14836 of 2016 is also dismissed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ss
To

1. The Special Subordinate Judge
Motor Accidents Claims Tribunal
Krishnagiri

+1 cc to Mr.D.Venkatachalam Advocate sr 51997

C.M.A.No.2030 of 2016

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