

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2016

CORAM:

THE HON'BLE MR.JUSTICE T.RAJA

C.M.A.No.2841 of 2015

And

M.P.No.1 of 2015

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Villupuram Division,
Thiruvannamalai. Appellant/Respondent

Vs.

Santhiya,
Nukkampadi Village, Managalam Post,
Thiruvannamalai Taluk & District. Respondent/Petitioner

Prayer :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1989 (Act LIV of 1989) against the award and decree passed by the Motor Accidents Claims Tribunal, Thiruvannamalai, Chief Judicial Magistrate at Thiruvannamalai made in M.C.O.P.No.84 of 2011 dated 12.02.2015.

For Appellant : Mr.P.Paramasivadoss

JUDGMENT

This Civil Miscellaneous Appeal has been directed against the impugned award passed by the learned Motor Accidents Claims Tribunal, Thiruvannamalai cum Chief Judicial Magistrate at Thiruvannamalai in M.C.O.P.No.84 of 2011 dated 12.02.2015 awarding a sum of Rs.2,05,000/- as against the claim of Rs.5,00,000/- for the multiple injuries suffered by the claimant. Aggrieved by the impugned award amount, the appellant/ State Transport Corporation has filed this appeal.

2.Mr.P.Paramasivadoss, learned counsel appearing for the appellant/ State Transport Corporation heavily assailing the impugned award would contend that there was no proof of negligence available to the learned Tribunal to find fault with the driver of the vehicle belonging to the Transport Corporation

and merely on the basis of the registration of the F.I.R. against the driver of the vehicle, the learned Tribunal has simply fastened the negligence on the part of the driver ignoring the fact that the accident was caused by the claimant herself.

3.Further, he would submit that when the claimant has produced the disability certificate marked as Ex.P4 dated 21.08.2014 showing that the injured has suffered 35% partial permanent disability, the learned Tribunal has wrongly fixed the multiplier method which is im-permissible in law, because the fixation of multiplier method has to be based only on proper consideration of the fact that the claimant has suffered loss of earning capacity due to the multiple injuries suffered in the accident. There is no such determination made by the learned Tribunal. Therefore, the impugned award fixing a sum of Rs.2,05,000/- is liable to be interfered with.

4.This Court is not able to find out any merit in the appeal for the reason that the accident took place on 31.12.2010 at about 7.30a.m., at Thiruvannamalai to Mangalam Road near Nookmabadi Danish Mission School, Tiruvannamalai Taluk while the claimant was riding on her bicycle on the left side of the mud road and the driver of the bus belonging to the Transport Corporation bearing Registration No.TN.23.N.1512 drove the vehicle in a rash and negligent manner. The learned Tribunal on the basis of the evidence produced has come to the conclusion that the offending vehicle only dashed against the claimant on the backside, as a result of which the minor claimant has suffered injuries on the centre back bone and all over the body. Therefore she was taken to the Government Hospital, Thiruvannamalai for treatment and after some time, she was again shifted to private hospital at Thiruvannamalai after considering the fact that the claimant was taking treatment for about one month and spent a sum of Rs.30,000/-. Accepting the disability certificate produced by the Doctor Ravindran who was also examined as P.W.2, the learned Tribunal awarded a sum of Rs.1,05,000/- for partial permanent disability fixing Rs.3,000/- as monthly notional income of the injured.

5.The learned Tribunal awarded a sum of Rs.2,05,000/- under various heads as follows:

For multiple injuries	: Rs. 1,05,000/-
For attendant charges	: Rs. 25,000/-
For pain and sufferings	: Rs. 30,000/-
For extra nourishment	: Rs. 25,000/-
For transportation charges	: Rs. 20,000/-
Total	: Rs. 2,05,000/-

6.This Court finding that the amount of Rs.2,05,000/- awarded as total compensation to the minor girl who met with an

accident on 31.12.2010 caused by the rash and negligent driving of the driver of the Transport Corporation is reasonable, is not able to find out any infirmity in the impugned award. Accordingly, the award is confirmed and the civil miscellaneous appeal is dismissed.

7.It is represented that the State Transport Corporation has deposited only the statutory deposit of Rs.25,000/-. Hence, the State Transport Corporation is directed to deposit the balance of the compensation amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this order. It is needless to mention that, on such deposit being made, the respondent/ claimant is permitted to withdraw the entire compensation amount with accrued interest and costs on filing proper application before the Tribunal.

8.In the result, the civil miscellaneous appeal is dismissed and the judgment and decree passed by the Motor Accidents Claims Tribunal, Thiruvannamalai, Chief Judicial Magistrate at Thiruvannamalai made in M.C.O.P.No.84 of 2011 dated 12.02.2015 is confirmed. No costs. Consequently, the connected miscellaneous petition is also closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

pri
To

1. The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal, Thiruvannamalai,

+1 cc to M/s.P.Paramasivadoss Advocate sr.1192

C.M.A.No.2841 of 2015
And
M.P.No.1 of 2015

aa15/04/2016

WEB COPY