

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2874 of 2015

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
37, Mettupalayam Road
Coimbatore-43 (at Chennimalai road)
Erode .. Appellant/ 2nd Respondent

-Vs-

1. P.Bakkiyanathan ..1st Respondent/ Petitioner
2. K.Ponnusamy
(R2 is driver, unnecessary party hence given up) ..2nd Respondent/
1st Respondent

Memorandum of Grounds of Civil Miscellaneous Appeal under
Section 173 of the Motor Vehicles Act, 1988 against the award and
decree dated 10.8.2011 made in M.C.O.P.No.385 of 2009 on the file
of the Motor Accidents Claims Tribunal, Subordinate Judge,
Bhavani.

For Appellant :: Ms.R.T.Sundari

For Respondents :: Mr.C.Kulanthaivel for R1
R2-Given up

JUDGMENT

This civil miscellaneous appeal has been directed against
the impugned award passed in M.C.O.P.No.385 of 2009 dated
10.8.2011 by the Motor Accidents Claims Tribunal, Subordinate
Judge, Bhavani awarding a sum of Rs.1,03,000/- together with
interest at 7.5% per annum as against the claim of Rs.2,00,000/-
for one grievous injury and two simple injuries sustained by the
claimant/first respondent herein.

2. Assailing the quantum of compensation, the learned
counsel for the appellant-Transport Corporation contended that
the Tribunal has committed a serious error in holding that the
driver of the offending bus belonging to the Corporation was rash
and negligent for causing the accident. On the other hand, the
first respondent/claimant only suddenly crossed the road at about
6.00 P.M., on 23.8.2009 without taking care to see the vehicle
passing on the road. However, the driver of the appellant
Corporation had stopped the bus to avoid the accident. But the
first respondent/claimant being an old man aged about 60 years
fell down and sustained injuries and that no accident has

happened at all. This was also properly brought out in the counter affidavit filed before the Tribunal. But the Tribunal, going by the registration of the First Information Report against the driver of the vehicle belonging to the appellant Corporation, has wrongly come to the conclusion that the accident occurred only due to the rash and negligent driving by the driver of the bus bearing Registration No.TN-33-N-1914. Again the Tribunal, after holding the driver responsible for the accident, without even considering the fact that the first respondent/claimant suffered two simple injuries and one grievous injury, has wrongly assessed the disability at 32% on the basis of the medical certificate marked as Ex.P8. On the basis of 32% disability, the Tribunal, fixing a sum of Rs.2,000/- for each percentage of disability, has awarded a sum of Rs.64,000/- for disability in the absence of medical bills, which is also on the higher side.

3. But this Court is not able to see any merits in the appeal. The reason is that when the first respondent/claimant, aged about 60 years, was walking from Gobichettipalayam to Sathyamangalam main road on 23.8.2009 at about 6.00 P.M., near Church towards south to north extreme left side of the road, at this point of time the offending vehicle bearing Registration No.TN-33-N-1914 driven by its driver hit behind the claimant, as a result the injured sustained one grievous injury and two simple injuries. Immediately after the accident, First Information Report was also registered against the driver of the offending vehicle on 23.8.2009 in Sathyamangalam Police Station Crime No.614 of 2009 under Sections 279 & 337 of IPC and was marked as Ex.P1. On the basis of the report, the driver was also charge-sheeted. Ex.P2-Observation mahazar prepared by the police during the course of investigation at the scene of occurrence also supported the case of the claimant. Therefore, the Tribunal has come to the conclusion that the driver of the appellant bus bearing Registration No.TN-33-N-1914 was rash and negligent in driving the vehicle, due to which the accident had occurred and the injured claimant suffered two simple injuries and one grievous injury. Ex.P5-Accident register perused by the Tribunal shows that the claimant had sustained the following injuries:-

- (i) Pain and swelling right shoulder joint
- (ii) Laceration 3x2x1 cm occipital region right side
- (iii) Pain and swelling right clavicle region

Dr.A.K.Thambiraj, P.W.2 had also examined the claimant and assessed his disability at 32% in view of the two simple injuries and one grievous injury mentioned above. On a further perusal of the disability certificate, Ex.P8 certifying 32% disability for the above said injuries, the Tribunal has fixed a sum of Rs.2,000/- for each percentage of disability and accordingly a sum of Rs.64,000/- (Rs.2000 x 32) has been granted for disability, which is just and reasonable. With regard to the award of compensation under the conventional heads, namely, Rs.20,000/- towards pain and suffering, Rs.5,000/- towards nourishment, Rs.1,000/- towards transportation charges, Rs.1,000/- towards damages to clothes and articles, Rs.3,000/- towards medical expenses and a sum of Rs.9,000/- towards loss of earning for 3 months at the rate of Rs.3000/- p.m., this Court is

not able to see any unreasonable approach adopted by the Tribunal. Therefore, the impugned award is confirmed and the civil miscellaneous appeal is dismissed. Since the statutory amount of Rs.25,000/- alone has been deposited, the appellant-Transport Corporation is directed to deposit the entire balance amount along with interest to the credit of the M.C.O.P.No.385 of 2009 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Bhavani within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is open to the first respondent/claimant to withdraw the same along with the accrued interest by moving appropriate application before the Tribunal. Consequently, M.P.No.1 of 2015 is also dismissed. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

ss

To

1. The Motor Accidents Claims Tribunal
Subordinate Judge
Bhavani

1 cc to Mr.C. Kulanthaivel, Advocate, Sr. 1513

C.M.A.No.2874 of 2015

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