

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.2641 of 2016 and
C.M.P. No.18838 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram. ... Appellant/Respondent

Versus

S.Gurumoorthy ... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 29.04.2016 made in M.C.O.P. No.55/2007 on the file of the Motor Accidents Claims Tribunal, (II Additional District Judge), Chidambaram.

For appellant : Mr.S.Sairaman

J U D G M E N T

The Managing Director, Tamil Nadu Transport Corporation has brought this appeal challenging the correctness of the impugned award dated 29.04.2016 made in M.C.O.P. No.55/2007 on the file of the Motor Accidents Claims Tribunal, (II Additional District Judge), Chidambaram, awarding a sum of Rs.4,70,100/- as against the claim of Rs.5,00,000/-.

2.It is contended by the learned counsel for the appellant/Transport Corporation that on 15.09.2004 at about 20.30 hours, while the respondent/claimant was carelessly walking on the North Car street, Chidambaram, along with his neighbour A.Ramar, the bus belonging to the appellant/Transport Corporation bearing Registration No.TN-32-N-1298, was said to have hit against the respondent/claimant, which has not been supported by any evidence before the Tribunal, whereas the Tribunal accepting the evidence adduced by the injured and taking support from the oral evidence adduced by Dr.S.Natarajan, who was examined as PW2 and without being any independent evidence, has come to the conclusion that while the injured was walking on the road, he had been wrongly hit by the bus belonging to the appellant/Transport Corporation. Again taking note of the age of the injured which was mentioned as 45 years,

who claimed to be the business man, the Tribunal has wrongly fixed a sum of Rs.3,45,600/- towards loss of earning power and a sum of Rs.30,000/- towards pain and sufferings and a sum of Rs.20,000/- towards loss of amenities and a sum of Rs.18,000/- towards attendant charges. Therefore, the total award of compensation at Rs.4,70,100/- is being unreasonable and exorbitant and the same is liable to be interfered with.

3. But, this Court finds no merit on the submissions made by the learned counsel for the appellant/Transport Corporation for the reason that on 15.09.2004 at about 20.30 hours, while the injured/claimed was walking on the extreme left side of the North Car Street, Chidambaram, along with his neighbour A.Ramar, a bus bearing Registration No.TN-32-N-1298 belonging to the appellant/Transport Corporation driven by its driver in a rash and negligent manner and dashed against the injured/claimant and caused the accident. Immediately, the complaint was filed on the file of the Chidambaram Town Police Station and a case has been registered in Cr.No.1820 of 2004 for the offence under Sections 279 and 337 of IPC and the First Information Report was marked as Ex.P1. After analysing the evidence of injured/claimant and a copy of the FIR, the Tribunal found that the driver of the bus was only responsible for causing the accident on 15.04.2004. Therefore, the Tribunal has answered the question who is responsible for causing the accident. Therefore, accepting the evidence of injured/claimant along with Ex.P1/FIR, the Tribunal has come to the conclusion that the accident had taken place only in a rash and negligent driving of the driver of the bus belonging to the appellant/Transport Corporation.

4. While coming to the question of compensation, the Tribunal has taken note of the fracture sustained by the injured on his right 7, 8, 9 ribs and left 7th rib and as a result, due to multiple injuries and fractures, the injured/claimant was immediately rushed to RMMC Hospital, Annamalainagar. The Accident Register which was marked as Ex.P7 and the treatment certificate which was also marked as Ex.P2, clearly indicate that the injured has sustained multiple fracture on his right 7, 8, 9 ribs and left 7th rib. The Tribunal has also analyzed the medical prescriptions under Ex.P3. When the medical bills also indicate that the injured has spent a sum of Rs.46,201/- as per Ex.P8, accepting that the injured has sustained grievous injuries, the Tribunal has come to the conclusion that the injured/claimant is entitled to get the compensation. Although he has claimed a compensation of Rs.5 lakhs, considering the fact that he has sustained fractures on his right 7, 8, 9 ribs and left 7th rib which was corroborated by the evidence of doctor, who was examined as PW2 and who has certified 40% disability and further accepting the case of the

injured/claimant that only due to the accident, he had suffered multiple injuries to the extent of 40% disability and the petitioner was unable to do his avocation as before and considering the above facts, the functional disability has been arrived 40% at by the Tribunal. Due to the functional disability sustained by the injured/claimant, this Court is of the view that awarding only a sum of Rs.3,45,600/- towards loss of earning power, [i.e.6000 x 12 x12 x40/100], a sum of Rs.30,000/- towards pain and suffering, a sum of Rs.20,000/- towards loss of amenities, a sum of Rs.46,500/- towards medical expenses, a sum of Rs.5,000/- each towards extra nourishment and ambulance and a sum of Rs.18,000/- towards attendant charges are reasonable and therefore, this Court is not inclined to interfere with the impugned award passed by the Tribunal and the same is hereby confirmed.

5. Accordingly, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

6. Since the learned counsel for the appellant/Transport Corporation submitted that the appellant has deposited Rs.25,000/- towards statutory deposit, the balance amount is directed to be deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimant to move a petition before the learned Tribunal for withdrawing of the said amount.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Motor Accidents Claims Tribunal,
(II Additional District Judge),
Chidambaram.

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

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