

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.76 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
Villupuram Limited
No.3/137, Salamedu, Valudhareddy
Villupuram .. Appellant/ Respondent

-Vs-

Gnanasekar
S/o Arumugam ... Respondent / Petitioner

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 17.12.2013 made in M.C.O.P.No.2056 of 2007 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Cuddalore.

For Appellant :: Mr.K.J.Sivakumar

JUDGMENT

The Managing Director of Tamil Nadu State Transport Corporation (Villupuram) Limited, finding fault with the correctness of the impugned award passed by the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Cuddalore in M.C.O.P.No.2056 of 2007 dated 17.12.2013 awarding a total compensation of Rs.96,060/- with interest at 7.5% per annum, has brought this civil miscellaneous appeal.

2. Heard the learned counsel for the appellant and perused the materials available on record.

3. Attributing negligence on the part of the driver of the bus belonging to the appellant Transport Corporation for causing the accident, the respondent/claimant filed a claim petition before the Tribunal claiming a total compensation of Rs.5,00,000/- for the injuries sustained by him on the ground that on 5.1.2007 at about 4.00 hours when he was travelling as a passenger from Chennai to Panruti in the bus bearing Registration No.TN-32-N-2421, near Kanrakottai Periyasarakuppalam, the bus capsized only due to the rash and negligent driving of the driver of the bus belonging to the appellant. The Tribunal, based on the evidence of P.W.1 and also the contents of the First Information Report, Ex.P1 and the Motor Vehicle Inspector's report, Ex.P3, held that the accident occurred only due to the rash and negligent driving of the driver of the bus in question,

since the appellant had not examined its driver to disprove the evidence of P.W.1. With regard to the award of compensation for disability, the Tribunal, after fixing the notional monthly income of the claimant at Rs.4,500/- per month and after considering the disability certificate, Ex.P10 issued by the doctor P.W.2 assessing the disability at 15%, has finally fixed the disability at 8% taking into account the nature of injuries sustained by the claimant. The Tribunal also, considering the age of the claimant as 34 at the time of the accident, adopted the multiplier of 16 and arrived at the compensation of Rs.69,120/- for disability i.e., $\text{Rs.}4500 \times 12 \times 16 \times 8 / 100 = \text{Rs.}69,120/-$. In addition thereto, since the claimant was taking treatment in Krishna Hospital, Cuddalore for fracture of L2 transverse process and the same was deposed by the doctor, P.W.3 through P.W.9 treatment record, the Tribunal has awarded a sum of Rs.9,000/- towards loss of income to the claimant for two months. So far as the award of compensation under the conventional heads are concerned, the Tribunal has awarded a sum of Rs.10,000/- towards pain and suffering, a sum of Rs.1,940/- towards medical expenses on consideration of Ex.P4 medical prescription and Ex.P5 medical bills, a sum of Rs.3,000/- towards transportation charges and a sum of Rs.3,000/- towards extra nourishment and attender charges. On consideration of the entire evidence, this Court does not find any merit to interfere with the award of the Tribunal awarding a total compensation of Rs.96,060/- to the respondent/claimant for the injuries sustained by him in the accident. Accordingly, confirming the award of the Tribunal, the civil miscellaneous appeal is dismissed. Since only a sum of Rs.25,000/- had been deposited, the appellant is hereby directed to deposit the entire balance amount of compensation together with interest to the credit of the M.C.O.P.No.2056 of 2007 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Cuddalore within a period of four weeks from the date of receipt of a copy of this order. Needless to mention that it is open to the respondent/claimant to withdraw the same by moving appropriate application before the Tribunal. Consequently, C.M.P.No.703 of 2016 is also dismissed.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

ss

To

The Motor Accidents Claims Tribunal
Principal Subordinate Judge
Cuddalore

1 cc to Mr.K.J.S. Sivakumar, Sr. 2672

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