

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2016

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A.NO.8 OF 2016

AND

CMP.NO.41 OF 2016

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Kumbakonam,
Trichy-620 001.

... Appellant/Respondent

...vs...

Amala

... Respondent/Claimant

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed by the learned Additional District Judge, (MACT), Namakkal in M.C.O.P.No.1324 of 2013 dated 03.11.2014.

For Appellant : Mr.D.Venkatachalam
For Respondent : Mr.Ma.P.Thangavel

JUDGMENT

Aggrieved by the award dated 03.11.2014 passed in M.C.O.P.No.1324 of 2013 by the learned Additional District Judge, (MACT), Namakkal, the Managing Director, Tamil Nadu State Transport Corporation Ltd., Kumbakonam, Trichy has filed this appeal.

2.The Tribunal after evaluating the evidence adduced by the parties held that the driver of the appellant corporation who drove the bus in a negligent manner is responsible for the accident and awarded a sum of Rs.8,71,300/- as compensation as against the claim of Rs.5,00,000/- for the injury sustained by the petitioner/respondent in the accident that took place on 31.05.2013.

3.Heard the submissions made by the learned counsel on either side and also perused the evidence available on record.

4.Mr.D.Venkatachalam, the learned counsel for the appellant contended that only on the basis of registration of FIR against the driver of the bus belonging to the Transport Corporation, the learned Tribunal has solely fixed the negligence on the driver of the appellant corporation and

allowed the claim petition holding vigorously that the accident occurred only due to the rash and negligent driving of the bus driver and the Transport Corporation is liable to pay the compensation. He further submitted that the driver of the vehicle/R.W.1 who is the competent person to speak about the accident went into the witness box and appeared before the Tribunal clearly explained how the accident took place and who was responsible for the accident that occurred on 31.05.2013 at about 4.30 p.m. near Mariamman Temple bus stop, Vazhaasiramani, but the learned Tribunal without even discussing the evidence adduced by the driver of the bus/R.W.1, has wrongly fixed the entire negligence as against the driver of the bus without giving any reason as to how the contributory negligence could not be fixed against the injured who has invited the accident. Adding further, he contended that the permanent disability fixed at 35% being on the higher side, for the simple reason, disability sustained by the claimant would not affect the future earning capacity as she is serving as a teacher and also submitted that the Tribunal had committed an error in adopting the multiplier in calculating the earning capacity of the injured and therefore, prayed this Court to set aside the award passed by the Tribunal.

5. Contrary to this, Mr. Ma. P. Thangavel, learned counsel for the respondent would submit that on the date of accident that took place on 31.05.2013 at about 4.30 p.m., near Mariamman Temple bus stop, Vazhaasiramani, the respondent/claimant was merely stepping down from the bus bearing registration No. TN-45-N-2055, without even noticing the same, the driver of the bus suddenly moved the bus in a rash and negligent manner, without even giving any warning, as a result, the claimant slipped down from the bus and sustained grievous injury including fracture, thereafter she was admitted in M.M. Hospital, Namakkal and underwent treatment for the injury suffered in the said accident. Continuing his argument, he submitted that the doctor also stated that a plate and screw were inserted during the surgery done on 31.05.2013 and further, stated that the screw is not removed and therefore, the doctor Mr. Sivakumar, who was examined as P.W.2, had issued the disability certificate stating that the claimant suffered 40% disability.

6. Considering the fact that the injured has suffered multiple injuries including fracture and she again underwent surgery and during the said surgery, plate along with screw had been placed, the learned Tribunal has rightly accepted the permanent disability suffered by the claimant and awarded a sum of Rs. 6,80,400/- (9000x12x35/100x18) towards future loss of income, as the claimant was serving as a teacher a sum of Rs. 9000/- was taken as monthly income and by adopting multiplier of 18 which seems to be just and reasonable, this Court also finds that the amount awarded by the Tribunal under other heads warrants no interference.

7.In view of the reasons stated above, I am unable to find any reasons to interfere with the award passed by the Tribunal and the same is liable to be confirmed. In the result, the Civil Miscellaneous Appeal is dismissed. The claimant is entitled to receive the award amount with proportionate interest. Consequently, connected Miscellaneous Petition is also closed. There shall be no orders as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

DP
To

1.The Additional District Judge,
(The Motor Accident Claims Tribunal)
Namakkal.

+1cc to Mr.D. Venkatachalam, Advocate, S.R.No.2186
+1cc to Mr.Ma. P. Thangavel, Advocate, S.R.No.2291

KGK(CO)
EU(13/05/2016)

C.M.A.No.8 of 2016
and
CMP.No.41 of 2016

सत्यमेव जयते
WEB COPY