

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.1286 of 2013
and M.P.No.1 of 2013

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

Versus

Sivalingam ..Petitioner/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.424 of 2008 dated 27.07.2011 on the file of the Motor Vehicles Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri.

For Appellant : Mr.D.Venkatachalam

For Respondent : Mr.T.Pappiah Dharmarajan

J U D G M E N T

The Transport Corporation has come up with this appeal challenging the quantum of compensation awarded by the Tribunal.

2.In an accident which occurred on 10.08.2006, about 11.30 hours, when the claimant, Sivalingam was riding his motorcycle bearing Registration No.TN 24 Y 6167 slowly and cautiously on the extreme left side of the road from Naickenkottai towards Sengalmedu in Dharmapuri to Tiruppattur Main Road, a Bus bearing Registration No.TN 29 N 1537 which was driven by its driver in a rash and negligent manner, dashed against the claimant from the opposite side, due to which, he sustained grievous injuries. He was immediately taken to Government Hospital, Dharmapuri. He was later referred to S.K.S. Hospital, Salem and thereafter, he was taken to NIMHANS Hospital at Bangalore for further treatment. Due to the accident, the claimant sustained fracture on his right parietal region and other multiple injuries all over his

body. The Krishnapuram Police registered a case in Crime No.185 of 2006 for the alleged offences under Sections 279 and 337 of IPC against the bus driver. The claimant filed a Claim Petition before the Tribunal seeking a sum of Rs.5,00,000/- as compensation. After analyzing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.1,69,300/- as compensation, under the following heads:

Heads	Amount
Disability	Rs. 50,000.00
Pain and Sufferings	Rs. 60,000.00
Extra Nourishment	Rs. 2,000.00
Transportation	Rs. 2,300.00
Loss of income during treatment	Rs. 36,000.00
Medical Expenses	Rs. 19,000.00
Total	Rs.1,69,300.00

3.Learned counsel appearing for the appellant/Transport Corporation would mainly contend that the quantum of compensation awarded by the Tribunal is too high when compared to the injuries sustained by the claimant.

4.On the other hand, learned counsel appearing for the respondent/claimant would submit that even though the claimant claimed Rs.6,000/- per month for his permanent disability, the Tribunal fixed only Rs.3,000/- per month for the fracture sustained by the injured.

5.Heard the submissions made by the learned counsel on either side and gone through the materials available on record.

6.The Doctor, who has assessed disability of the injured as 30%, which was reduced to 25% by the Tribunal and compensation of Rs.2,000/- for one disability was taken into account, which cannot said to be on the higher side. That apart, even though it appears that the amount of the compensation under the head Pain and Sufferings is slightly excessive, the Tribunal failed to grant any amount under the head "Attendant Charges". Hence, this Court is not inclined to interfere with the compensation awarded by the Tribunal.

7.In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. It is made clear that if no amount is deposited so far, the

appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.424 of 2008 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Dharmapuri, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimant in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company. No costs. Consequently, connected M.P.No.1 of 2013 is also closed.

-s/d-

Assistant Registrar (CSV)

True Copy

Sub-Assistant Registrar

sri

To

The Motor Vehicles Accident Claims Tribunal,
Chief Judicial Magistrate, Dharmapuri.

copy to:

The Section Officer
VR section
High Court Madras

+1 cc to Mr.M.Selvam Advocate sr.25170

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