

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.604 of 2009
and M.P.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Periya Melagu Palai
Trichy.

.. Appellant

Vs.

Arumugam

.. Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988 against the award made in MCOP.No.3 of 2006 dated 19.09.2007 on the file of the Motor Vehicles Accident Claims Tribunal, Sub Court, Ariyalur.

For Appellant : Mr.S.V.Vasanthakumar
For Respondent : Mr.C.Prabakaran

JUDGMENT

The Civil Miscellaneous Appeal is filed by the Tamil Nadu State Transport Corporation Ltd., Trichy, challenging the award of Motor Accident Claims Tribunal, Sub Court, Ariyalur in MCOP.No.3 of 2006, where under the compensation of Rs.2,48,000/- with interest at the rate of 7.5% per annum with costs.

2. The respondent/the claimant before the Tribunal, met with an accident on 05.08.2004 at about 4.15p.m, when he was riding his motor cycle, a bus bearing No.TN45-N-1248 came from the opposite direction and alleged to have collided with the motor cycle. The claimant is stated to have suffered head injury in the said accident.

3. As per the award of the Motor Accident Claims Tribunal, out of total amount of Rs.2,48,000/- awarded, Rs.1,38,000/- was awarded towards medical expenses, and so far as disability is concerned based on Ex-P2, wound certificate and Ex-P7, disability certificate, the Tribunal has determined the permanent disability at 54% and awarded compensation of Rs.55,000/- and Rs.22,000/- towards injury suffered.

4. The learned counsel for the appellant submitted that there was a speed breaker in the place, where the accident took place and the claimant was negligent in crossing the speed breaker, as he drove his two wheeler rashly and negligently, and ran himself on to the bus. Therefore, the Tribunal should have attributed part of the cause of the negligence to the claimant, and the award should have been reduced to that extent, but the Tribunal has ignored it.

5. The learned counsel for the respondent vehemently disputed it and stated that there is hardly any evidentiary material to support the theory of the appellant.

6. On a perusal of the papers, this Court does not find any evidential material to support that the claimant was negligent in riding the motor cycle and the findings of the Tribunal in recording the negligence of the appellant does not require any reason to be interfered with. There is no merit in the appeal and hence dismissed. The appellant is directed to deposit entire award amount, less if any already deposited, within four weeks from the date of receipt of a copy of this order, and on such deposit, the claimant is entitled to withdraw it forthwith. No costs. Consequently, connected miscellaneous petition is closed.

18.11.2016

Index : Yes/No
Internet : Yes/No

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To:
The Motor Vehicles Accident Claims Tribunal,

Sub Court, Ariyalur.

N.SESHASAYEE,J

ds

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