

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.04.2016

CORAM

THE HON'BLE Mr. JUSTICE S.VAIDYANATHAN

C.M.A.No.3318 of 2008

and M.P.Nos.1 of 2008 & 1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division-II,
Vellore-9. Appellant/Respondent

Vs.

Mahendra Jain @ Mahendra Kumar Jain ... Respondent/Claimant

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment in M.A.C.T.O.P.No.389 of 2003 dated 26.10.2007 passed by the Motor Accident Claims Tribunal-cum-II Small Causes Court, Chennai.

For Appellant : Mr.N.Anand

For Respondent : Mr.S.Gangaram Prasad

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. For the injuries sustained in an accident on 30.09.2002, a 37 year old Manager in Andhra Express Service Pvt. Ltd. has approached the Tribunal, claiming compensation of Rs.12,50,000/- and the Tribunal fixed his income as Rs.6,000/- and granted a compensation of Rs.2,02,350/-. The appellant submitted that the amount of compensation awarded by the Tribunal is excessive and hence, it has got to be interfered with.

3. Learned counsel for the appellant contended that on the date of accident in question, when the driver of the appellant/Transport Corporation Bus took a right turn and slowed down the Bus, a TATA Sumo came in the opposite direction in a rash and negligent manner and dashed against the Bus. The

driver of the appellant/Transport Corporation bus, who was examined as R.W.1, deposed about the negligence of the driver of the TATA Sumo. It is his further contention that the compensation granted towards "Loss of earnings" is on the higher side.

4. On a perusal of the award, it is clear that the compensation for the disability of the injured claimant assessed at 60%, has necessarily got to be increased. Even if Rs.2,000/- is fixed per percentage of disability, the compensation towards disability works out to Rs.1,20,000/-. That apart, the injured has taken treatment for 10 days in the hospital and hence, a sum of Rs.30,000/- awarded towards "Loss of earnings" cannot be said to be excessive.

5. Taking note of the fact that the claimant/injured has taken treatment at C.M.C. Hospital, Vellore and MIOT Hospital, Chennai and that there is a disability of 60%, the compensation granted by the Tribunal cannot be said to be excessive. Hence, I find that there is no infirmity or illegality in the order passed by the Tribunal and the compensation awarded by the Tribunal is hereby confirmed.

6. 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.389 of 2003 on the file of the Motor Accident Claims Tribunal-cum-II Small Causes Court, Chennai, 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 Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The II Judge,
Motor Accident Claims Tribunal,
II Court of Small Causes,
Chennai.

Copy to

The Section Officer,
VR Section, High Court, Madras.

+lcc to Mr.N.Anand, Advocate Sr.27538

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