



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2016

Coram:

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD)No.403 of 2016

and

C.M.P(MD)No.5501 of 2016

The Managing Director,  
Tamil Nadu State Transport Corporation,  
Kumbakonam. .. Appellant/Respondent

-Vs-

Veerasamy .. Respondent/Petitioner

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 30.11.2010 made in M.C.O.P.No.491 of 2006 on the file of the Motor Accident Claims Tribunal cum Additional Sub Court, Thanjavur.

For Appellant : Mr.M.Prakash

For Respondent : Mr.G.Karnan

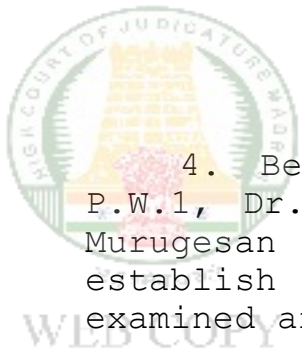
#### JUDGMENT

Aggrieved over the award passed by the Motor Accident Claims Tribunal, Additional Sub Court, Thanjavur in M.C.O.P.No.491 of 2006, the Transport Corporation has filed the appeal.

#### 2. The facts in brief are as follows:-

On 16.07.2005, the claimant was proceeding in a two-wheeler bearing Registration No.TN 49-A-9380 on Mannarkudi-Pattukottai main road. While so, a bus bearing Registration No.TN-49-N-0970 belonging to the appellant-Transport Corporation, which was coming in opposite direction, hit against the two-wheeler. In the process, the claimant sustained fracture. He was immediately taken to Government Hospital, Thanjavur and later he was shifted to Vinothagan Memorial Hospital, Thanjavur, for better treatment. Alleging that the driver of the bus was responsible for the accident, a claim was laid for Rs.20,00,000/-.

3. The claim petition was resisted by the appellant-Transport Corporation, contending that the injured was responsible for the accident and the claim is on the higher side.



4. Before the Tribunal, the claimant examined himself as P.W.1, Dr.Swaminathan as P.W.2, Dr.Rathinasabapathi as P.W.3 and Murugesan as P.W.4 and also marked Exs.P.1 to P.19 and M.O.1 to establish his case. On the side of the appellant, no witness was examined and no document was produced.

5. The Tribunal relying upon Ex.P.1-First Information Report and the evidence of P.W.1 held that the driver of the bus was responsible for the accident and awarded a compensation of Rs.5,97,046/- with interest at the rate of 7.5% per annum. Challenging the award, the present appeal is filed.

6. Mr.M.Prakash, learned counsel appearing for the appellant-Transport Corporation would submit that the award passed by the Tribunal is contrary to law and against the evidence available on record and it has to be reduced.

7. The learned counsel appearing for the respondent-claimant made submissions in support of the Judgment of the Tribunal.

8. Ex.P.1-First Information Report and the evidence of P.W.1 would show that the occurrence had taken place in a turning and the driver of the bus came in a rash and negligent manner and hit against the two-wheeler. Hence, the finding on negligence is confirmed.

9. The evidence of P.W.2 and P.W.3 and Exs.P.17 to P.19 would reveal that the injured had sustained 46% permanent disability. Further, P.W.1 has given evidence stating that he sustained fracture on the left thigh and he took treatment as in-patient at Vinodhagan Memorial Hospital in Thanjavur from 16.07.2005 to 05.09.2005 and he underwent surgeries. P.W.3 has stated that there was a reduction of 5cm in the left thigh of the injured and his knee movement is reduced to 30 degree. Ex.P.13 shows that the claimant has spent Rs.2,51,046/- towards medical expenses.

10. The Tribunal by applying Rs.1000/- per disability has awarded Rs.46,000/- towards permanent disability, Rs.25,000/- towards pain and sufferings, Rs.25,000/- towards extra nourishment and transport expenses, Rs.16,000/- towards attendant charges, Rs.2,51,046/- towards medical bills, Rs.1,50,000/- towards loss of income for 2-1/2 years and Rs.84,000/- towards loss of income for 7 years and totally awarded a compensation of Rs.5,97,046/-.

11. It is not in dispute that the injured was working as an Assistant in Fire Service Department and he retired from service on VRS. Taking into consideration the retirement on VRS, the Tribunal has awarded Rs.1,50,000/- and Rs.84,000/- towards loss of income. In the considered opinion of this Court, the award passed by the Tribunal is fair and reasonable and therefore it is



confirmed. The interest of 7.5% per annum is maintained.

12. In the result, the Civil Miscellaneous Appeal is dismissed.

13. It is represented by the learned counsel appearing for the appellant-Transport Corporation that the appellant had already deposited the entire award amount before the Tribunal and the claimant had withdrawn Rs.2,97,046/- and the balance amount of Rs.3,00,000/- with accrued interest and costs is lying to the credit of the claim petition. In view of the dismissal of the appeal, the claimant is permitted to withdraw the entire balance award amount without filing any formal petition before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Cs I)

/True copy/

Sub Assistant Registrar

To  
The Motor Accident Claims Tribunal  
cum Additional Sub Court,  
Thanjavur.

+1cc to Mr.G.Karnan, Advocate SR.No.28949  
+1cc to Mr.M.Prakash, Advocate SR.No.29030

SH:SKS-RR:SAR II:01.07.2016:3P/4C

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