



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.405 of 2016

and

CMP(MD)No.5548 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Marudhupandian Nagar,
Karaikudi.

: Appellant/Respondent

Vs.

S.Periyasamy

: Respondent/Petitioner

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree passed in MCOP No.644 of 2006, dated 24th Day of August 2009, on the file of the Motor Accident Claims Tribunal-cum-III Additional Sub Court, Madurai.

For Appellant : Mr.M.Prakash

JUDGMENT

The appeal arises out of the award passed by the Motor Accident Claims Tribunal (III Additional Sub Court), Madurai, made in MCOP No.644 of 2006, dated 24.08.2009.

2.The appellant herein is the respondent in the claim petition filed by the respondent/claimant. According to the claimant, on 25.08.2005 at about 10.15 a.m., when he was proceeding in his motor cycle bearing registration No.TN-59-R-4318 on Mukkulam main road, a bus bearing registration No.63-N-0599 came in a rash and negligent manner from west to east direction, hit against the motor cycle. In the accident, he sustained grievous injuries.

3.The appellant Transport Corporation resisted the claim petition disputing the manner of the accident and the claim was excessive.

4.Before the Tribunal, the claimant has examined three witnesses PW1 to PW3 and marked Exs.P1 to P8. On the side of the appellant Transport Corporation, one witness was examined as RW1, however, no document was marked.



5. Heard the learned counsel appearing for the appellant and perused the materials on record.

6. PW1 the claimant has given evidence stating that due to rash and negligent driving of the bus, the accident had occurred. Ex.P1 the First Information Report would show that a criminal case was registered against the driver of the bus. RW1, the driver of the transport corporation bus has admitted that the occurrence had taken place in the junction. The Tribunal, after considering the evidence held that the driver of the bus was responsible for the accident.

7. PW1 has further deposed that he took treatment as inpatient for 56 days in the Rajaji Government Hospital, Madurai and thereafter, he was shifted to P.R.Hospital for better treatment. PW1 has further stated that he underwent surgery for the fracture on the right thigh and neck and a steel plated was implanted during surgery. The evidence of PW1 was corroborated by the evidence of PW2 and PW3.

8. PW3 has given evidence stating that the claimant has sustained 40% disability. Ex.P2 is the discharge summary. Exs.P3 and P4 are medical bills. The Tribunal by adopting Rs.2,000/- percentage awarded Rs.92,000/- towards permanent disability, Rs.42,698/- towards medical expenses based on Exs.P3 and P4, Rs.5,000/- was awarded for loss of income, Rs.2,000/- for transportation, Rs.5,000/- towards extra nourishment, Rs.3,000/- for attendant charges, Rs.40,000/- for pain and sufferings, totally Rs.1,89,698/- together with interest @ 7.5% p.a. The compensation awarded by the tribunal is fair and reasonable. Hence, this court does not find any infirmity or illegality in the order impugned in this appeal.

9. In fine, the appeal is dismissed and the award of the Tribunal is confirmed. The appellant Transport Corporation is directed to deposit the entire amount together with the interest and costs within a period of eight weeks from the date of receipt of a copy of this order, if not deposited already. On such deposit, the respondent/claimant is permitted to withdraw the entire amount without filing any formal application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Writs)

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To
The Motor Accidents Claims Tribunal Cum
The III Additional Subordinate Judge,
Madurai.

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+1cc to Mr.M.Prakash, Advocate SR.No.27945/16

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Judgment made in
CMA (MD) No.405 of 2016
03.06.2016