



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) No. 729 of 2016
and C.M.P. (MD) No. 7304 of 2016

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

Vs.

G.Velmurugan ... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment passed in M.C.O.P.No.305 of 2003, dated 21.03.2007 on the file of the Motor Accident Claims Tribunal cum Additional District Court/Fast Track Court No.4, Periyakulam.

For Appellant : Mr.M.Prakash

J U D G M E N T

Challenge in the appeal is the award dated 21.03.2007 passed by the Motor Accident Claims Tribunal-cum-Additional District Court/Fast Track Court No.4, Periyakulam, in M.C.O.P.No. 305 of 2003.

2. Heard the learned counsel for the appellant and perused the materials available on record.

3. According to the claimant, on 23.08.2000 at 4.00 a.m when he was alighting from the bus belonging to the appellant bearing Registration No. TN-57-N- 1105 at Theni Bus Stand, the driver of the bus suddenly moved it in a rash and negligent mannere, due to which, he fell down and the bus ran over his right leg, thereby, he sustained grievous injuries and fractures. He filed a petition claiming a compensation of Rs.7,00,000/- (Rupees seven lakhs only) alleging that the driver of the bus was responsible for the accident.

4. The appellant objected the claim by filing a counter stating that when the bus was stopped at Theni, a mob including the claimant attempted to get into the moving bus and in that process, he fell down and sustained injuries. The appellant also disputed the age, occupation and monthly income claimed by the petitioner.



5. Before the Tribunal, the claimant examined himself as P.W.1 and Dr.Kannan as P.W.2 and marked Exs.P.1 to P.8 and on the side of the appellant, 1 witness was examined as R.W.1 and no document was marked.

6. P.W.1 deposed the manner of accident in tune with the averments made in the Claim Petition. He produced Ex.P.1 the First Information Report and Ex.P.2, Charge Sheet to show that the criminal case was registered against the driver of the bus. The Tribunal, while disbelieving the evidence given on behalf of the appellant, held that the driver has caused the accident, accepting the oral and documentary evidence of the claimant.

7. P.W.1 further deposed that he was 60 years old on the date of accident and he was running a Provisional Store and due to the injuries, his right leg was amputated and an artificial leg was fixed. Ex.P.3 is the Wound Certificate. Exs.P.6 to P8 Disability Certificate and Identity Card corroborate the evidence of P.W.1. Exs.P.4 and P.5 are Medical Bills.

8. P.W.2 Dr.P.Kannan has given evidence stating that he is a Orthopedic Surgeon and working at the Government Hospital in Periyakulam and he examined the claimant and after perusing the records issued Ex.P.8 Wound Certificate stating that he suffered 65% permanent disability.

9. Based on the evidence of P.Ws.1 and 2 and Ex.P.8, the Tribunal has totally awarded Rs.5,33,000/- under the following heads with interest at the rate of 7.5% per annum:

Heads	Amount
Loss of Income	Rs. 1,80,000/-
Loss of Income during treatment period	Rs. 9,000/-
For Transport expenses	Rs. 1,000/-
For Extra Nourishment	Rs. 10,000/-
For damage to clothes	Rs. 1,000/-
For Medical Expenses	Rs. 37,000/-
For future medical expenses	Rs. 25,000/-
For pain and suffering	Rs. 20,000/-
For permanent disability	Rs. 2,00,000/-
For loss of earning capacity	Rs. 50,000/-
Total	Rs. 5,33,000/-

Challenging this amount, the appellant has filed this appeal.



10. In the considered opinion of this Court, the award passed by the Tribunal is fair and reasonable and the same is confirmed.

11. The Insurance Company is directed to deposit the entire award amount with interest and costs within a period of eight weeks from the date of receipt of copy of this order, less the amount already deposited. On such deposit being made, the claimants are permitted to withdraw the entire award amount with interest and costs.

12. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected C.M.P.(MD) No.7304 of 2016 is also dismissed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

1)The Motor Accident Claims Tribunal cum

Additional District Court/Fast Track Court No.4, Periyakulam.

Copy To: The Section Officer,

VR Section,

Madurai Bench of Madras High Court,

Madurai.

+1 cc to Mr.M.Prakash, Advocate in SR.No.41837

C.M.A. (MD)No.729 of 2016
and C.M.P. (MD) No. 7304 of 2016
03.08.2016

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