



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) .No.736 of 2016

and

C.M.P. (MD) No.7314 of 2016

M/s.Tamil Nadu State Transport
Corporation Ltd.,
(Kumbakonam Division - III),
Karaikudi, through its
Managing Director.

... Appellant/Respondent

Vs .

K.M.Thirunabi

... Respondent/Petitioner

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to set aside the Judgment and Decree passed in M.C.O.P.No.675 of 2006, dated 04th day of January 2010, on the file of the Motor Accident Claims Tribunal/Additional District Court cum Fast Track Court No.2, Madurai.

For Appellant : Mr.M.Prakash

JUDGMENT

This appeal is preferred by the Transport Corporation questioning the award passed by the Motor Accident Claims Tribunal, (Additional District Court), Fast Track Court No.2, Madurai in M.C.O.P.No.675 of 2006, dated 04.01.2010.

2. Heard the learned counsel for the appellant and perused the records.

3. Facts in brief:-

On 22.01.2006 at about 18 hours, the claimant was riding his motorcycle bearing Registration No.TN 59-W-0767 from Madurai to Melur, when he was nearing Jana Johnson Mill Therku Theru, a bus belonging to the appellant bearing Registration No.TN 63-N-0901 came from the opposite direction in a rash and negligent manner, dashed against the motorcycle. In the impact, the claimant has



sustained multiple injuries and immediately he was taken to Meenakshi Mission Hospital, Madurai for treatment. He filed a petition claiming compensation of Rs.3,00,000/-, alleging that the driver of the bus was responsible for the accident.

4. The claim was contested by the appellant by filing counter disputing the age, income and the occupation of the claimant and also the manner of the accident.

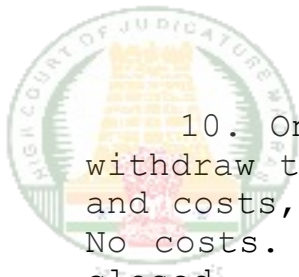
5. Before the Tribunal, the claimant examined himself as P.W.1 and he also produced Ex.P.1 First Information Report, Ex.P.2 Charge Sheet and Ex.P.3 report of the Motor Vehicle Inspector. Upon consideration of the oral and documentary evidence, the Tribunal has rightly come to the conclusion that the driver of the bus caused the accident, by disbelieving the evidence of R.W.1.

6. P.W.1 deposed that he took treatment as an in-patient at Meenakshi Mission Hospital, Madurai from 22.01.2006 to 30.01.2006. Ex.P.6 discharge summary corroborates the evidence of P.W.1. Ex.P.4 is Wound Certificate and Ex.P.5 is medical prescription sheets. P.W.2 who is an employee of the hospital also supported the case of the claimant. P.W.3 Dr.Chinnadurai assessed the disability and issued Ex.P.14 Disability Certificate stating that the claimant suffered 33% permanent disability. Based on the evidence, the Tribunal has awarded Rs.15,000/- under the head of permanent disability.

7. In addition, the Tribunal has awarded Rs.35,000/- towards medical expenses; Rs.5,000/- towards loss of earning and Rs.15,000/- towards pain and suffering. In total, the Tribunal has awarded Rs.70,000/- together with interest at 9% p.a and directed the appellant to deposit the said award amount with accrued interest within 2 months from the date of receipt of the copy of that order, failing which the claimant is entitled to 12% interest to the award amount from that date.

8. In the opinion of this Court, the quantum awarded by the Tribunal is fair and reasonable, which does not warrant interference by this Court. The Honourable Apex Court in a recent decision has awarded interest of 9% p.a. Therefore, the claimant is entitled to interest at 9% p.a., and the default interest of the Tribunal is deleted.

9. **In fine**, the award passed by the Tribunal dated 04.01.2010 is confirmed and the Civil Miscellaneous Appeal is dismissed. In view of the dismissal of this appeal, the appellant/Transport Corporation is directed to deposit the entire award amount along with interest and costs, if not already deposited, within a period of ~~three months~~ from the date of receipt of the copy of this Judgment.



10. On such deposit being made, the claimant is permitted to withdraw the entire award amount along with proportionate interest and costs, without filing any formal petition before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is also closed.

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Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal/
Additional District Court cum Fast Track Court No.2,
Madurai.

+ 1 CC TO Mr.M.PRAKASH, ADVOCATE IN SR No. 41038

PMU

TE/KM : 18/11/2016 : 3P/3C

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