



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2016

CORAM:

WEB COPY

THE HONOURABLE **MR. JUSTICE K.KALYANASUNDARAM**

C.M.A.(MD)No.739 of 2016
and
C.M.P.(MD).No.7317 of 2016

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

Vs.

Kennedy .. Respondent/Petitioner

Prayer: Appeal filed under Section 173 of Motor Vehicles Act 1988, against the judgment and decree passed in M.C.O.P.No.129 of 2009, dated 30.07.2010, by the Motor Accidents Claims Tribunal cum Additional District Judge, Fast Track Court, Ramanathapuram.

For Appellant : Mr.M.Prakash

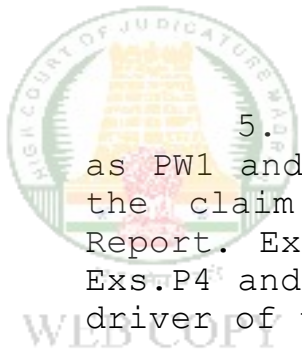
JUDGMENT

Challenging the award passed by the Motor Accident Claims Tribunal/Additional District Judge, Fast Track Court, Ramanathapuram, in M.C.O.P.No.129 of 2009, dated 30.07.2010, the appellant Transport Corporation has preferred this appeal.

2.The respondent filed the petition seeking compensation of Rs.3 lakhs for the injury sustained in the motor vehicle accident on 24.09.2009.

3.The case of the claimant is that on 24.09.2009, when he was riding the motorcycle bearing Reg.No.TN-65-A-9950 along Madurai-Ramanathapuram Highways Road (NH-49), a bus bearing Reg.No.TN-63-N-0832 came in a rash and negligent manner and ran against the motorcycle. As a result, the claimant was thrown away from the motorcycle and sustained injuries all over the body.

4. The appellant filed counter refuting the allegations made in the claim petition. It is stated in the counter that when the bus is proceeding on the National Highways, the claimant came in a high speed and dashed against the bus and fell down. So, they are not liable to pay compensation.



5. In support of his case, the claimant examined himself as PW1 and deposed about the manner of the accident as set out in the claim petition. He produced Ex.P1, the first Information Report. Ex.P2 is the observation mahazer. Ex.P3 is the sketch and Exs.P4 and P5 are the reports of the motor vehicle inspector. The driver of the appellant was examined as RW1.

6. The Tribunal, on proper appreciation of evidence, came to a conclusion that the accident occurred due to the negligence of the driver of the bus and awarded compensation. Aggrieved over the same, the present appeal is filed.

7. Heard Mr.M.Prakash, learned counsel appearing for the appellant and perused the records. There is no representation for the respondent.

8. PW1 deposed that he sustained injuries on his head, right leg and suffered fracture in the right fibula. He further stated that he was working as a driver and earning Rs.10,000/- per month. PW2, Dr.Sahaya Stephenraj, has given evidence stating that there is a reduction of movement of right foot and ankle and also stated that the claimant experiences pain while walking long distances and he cannot squat on the floor and do work. PW2 issued the disability certificate Ex.P14, which shows the claimant has suffered 18% of partial permanent disability. Ex.P.15 is x-ray.

9. Based on the evidence of PW2 and Ex.P.14, the Tribunal assessed the disability at 18% and awarded Rs.18,000/- under the head. The Tribunal has awarded Rs.2000/- towards transport to the hospital and extra nourishment; Rs.14,124.85/- towards medical expenses and Rs.25,000/- towards pain and sufferings. The Tribunal has totally awarded a sum of Rs.63,125/- along with interest at the rate of 7.5% per annum.

10. In my considered opinion, the award of the Tribunal made in M.C.O.P.No.129 of 2009, dated 30.07.2010, is fair and reasonable. Therefore, the same is confirmed.

11. **In fine**, this Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-
Assistant Registrar(CS-II)
/True copy/

Sub Assistant Registrar



To
Additional District Judge, Fast Track Court,
(Motor Accidents Claims Tribunal),
Ramanathapuram.

Copy To: The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai.

+1 cc to M/s.M.Prakash, Advocate in SR.No.41035

PJL
CSL/SS-2/04.11.2016: 3P/4C

C.M.A. (MD) No.739 of 2016
29.07.2016