



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2016

CORAM:

THE HONOURABLE Mr. JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) No. 750 of 2016

and

C.M.P. (MD) No. 7344 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Bye Pass Road,
Madurai.

... Appellant / Respondent
Vs.

K.Murugesan

... Respondent / Petitioner

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 10.03.2010 in M.C.O.P.No.1150 of 2007 passed by the Motor Accident Claims Tribunal cum IV Additional Subordinate Court, Madurai.

For Appellant : Mr.M.Prakash

JUDGMENT

This appeal is preferred against the award dated 10.03.2010 passed by the Motor Accident Claims Tribunal cum IV Additional Sub Court, Madurai in M.C.O.P.No.1150 of 2007.

2.The respondent filed the claim petition seeking compensation of Rs.2 lakhs for the injuries sustained in a motor vehicle accident on 19.03.2005.

3.According to the claimant, on 19.03.2005 at about 9.00 a.m., he was travelling in bus bearing registration No.TN-55 N 238 and at the time, a bus belonging to the appellant bearing registration No.TN 59 N 0832 came from opposite direction near Melore Santhaipettai Kathappanpatti Vilakku in a high speed and dashed against the bus bearing registration No.TN 55 N 238. In that impact, the claimant sustained injury and fracture and immediately he was taken to Government Hospital, Melur and thereafter, he took treatment at Senthil Nursing Home, K.K.Nagar, Madurai. The Inspector of Police, Melur Police Station registered a case against the driver of the bus in Crime No.432 of 2005.



4.The appellant opposed the claim contending and refuting the allegations made in the claim petition. It is further stated that the claimant is working as a Constable in Thallakulam Police Station, Madurai and by using his influence, a criminal case was registered after two days of the accident.

5.In order to prove the case, the claimant examined himself as P.W.1 and produced Ex.P.1 FIR. R.W.1 has given evidence stating that there was no damage to both the vehicles and the claimant has sustained injury since he was stretching his leg out side the bus. However, the Tribunal accepting the evidence of P.W.1 and based on Ex.P.1 held that the driver of the appellant had caused the accident.

6.P.W.3 Dr.Chinnadurai deposed that the claimant has suffered 31% disability and issued Ex.P.4 disability certificate. Ex.P.3 is case sheet, Ex.P.5 is X-ray. The Tribunal based on the evidence, has awarded Rs.46,500/- towards permanent disability; Rs.21,000/- towards loss of income; Rs.10,000/- for pain and sufferings; Rs.3,000/- towards extra nourishment and Rs.1,000/- for transportation expenses. The Tribunal totally awarded Rs.81,500/- along with interest at 7.5% per annum.

7.I am of the view that the award passed by the Tribunal is fair and reasonable and I do not find any merit in this appeal.

8.In the result, the award of the Tribunal is confirmed and the Civil Miscellaneous Appeal is dismissed. The appellant / Transport Corporation is directed to deposit the entire award amount with accrued interest and costs, within a period of 8 weeks from the date of receipt of a copy of this judgment, less the amount already deposited if any. On such deposit being made, the claimant is permitted to withdraw the award amount with interest and costs. No costs. Consequently, connected C.M.P.is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge, Motor Accident Claims Tribunal cum IV Additional Subordinate Court, Madurai.

+1 cc to M/s.M.Prakash, Advocate in SR.No.41016

nbj

CSL/SS-2/11.11.2016 :2P/3C