

**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.752 of 2016****and****CMP(MD)No.7347 of 2016**

The Managing Director,
Tamil Nadu State Express Transport
Corporation Ltd.,
Division 1,
Chennai.

: Appellant/1st respondent

Vs.

1.Sahul Hameed Beer Maideen : 1st respondent/Petitioner
2.Kandasamy : 2nd respondent/2nd respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree passed in MCOP No.33 of 2004, dated 19.06.2006 on the file of the Motor Accident Claims Tribunal-Sub Court, Sankarankovil.

For Appellant : Mr.M.Prakash

J U D G M E N T

This appeal is preferred against the award passed by the Motor Accidents Claims Tribunal (Subordinate Judge), Sankarankovil, in MCOP No.33 of 2004, dated 19.06.2006.

2.The first respondent filed a claim petition seeking compensation of Rs.10,00,000/- for the injuries sustained in the accident occurred on 13.09.2003.

3.According to the claimant, on 13.09.2003, he was travelling as a passenger in the bus belonging to the appellant transport Corporation from Senkottah to Coimbatore. When the bus was negotiating a curve at Subramaniya puram, the driver of the bus drove the bus in a rash and negligent manner, hit against the electric post. In the impact, the claimant has sustained grievous injuries and fracture on the left hand. Immediately he was taken to R.S. Ortho Clinic at Rajapalayam. A criminal case in Crime No.752 of 2003 was registered against the driver of the bus.



4.The claim was resisted by the appellant transport corporation disputing the manner of the accident and their liability to pay the compensation.

5.Before the Tribunal, on the side of the claimant, two witnesses were examined as PW1 and PW2 and Exs.P1 to P14 were marked. On the side of the Transport Corporation, one Kandasamy was examined RW1 and no document was produced. Upon consideration of the oral and documentary evidence, the Tribunal has awarded compensation of Rs.2,45,360/- together with interest @ 9% p.a. Challenging the said award, the present appeal has been filed.

6.Heard Mr.M.Prakash, the learned counsel appearing for the appellant Transport Corporation and perused the materials available on record.

7.The claimant in order to prove his case, examined himself as PW1 and in his evidence he has narrated the manner of the accident. The claimant also marked Ex.P1 First Information Report. Ex.P3 is the report of the Motor Vehicle Inspector, Ex.P4 is the site map, Ex.P5 is the observation mahazar and Ex.P6 is the charge sheet. Based on the evidence, the Tribunal rightly came to the conclusion that the driver of the bus caused the accident, while disbelieving the evidence of RW1.

8.PW1 deposed that he was taking treatment as inpatient at R.S. Ortho Clinic at Rajapalayam from 13.09.2003 to 03.10.2003 and he underwent surgery on the date of admission. Ex.P2 Discharge summary corroborates the evidence of PW1. PW1 has further stated that he was 34 year old on the date of the accident and he was earning Rs.25,000/- per month. Ex.P14 is the discharge summary.

9.PW2 Dr.Ravichandran has given evidence to the effect that the claimant has suffered 60% permanent disability. Ex.P11 is the disability certificate. The Tribunal, based on the evidence assessed the disability at 40% and awarded Rs.1,71,360/-, by applying the multiplier of '17', fixing the income of the claimant as Rs.2,100/- per month. The Tribunal has further awarded Rs.60,000/- towards medical expenses; Rs.5,000/- towards pain and sufferings; Rs.5,000/- towards extra nourishment; Rs.3,000/- towards transportation and Rs.1,000/- for damages to the clothes. The Tribunal has totally awarded Rs.2,45,360/- together with interest @ 9% p.a. In my view, the award passed by the Tribunal is fair and reasonable and it is confirmed.

10.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 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 claimant is permitted to withdraw the entire amount



3

without filing any formal application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/True copy/

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Sub Assistant Registrar

To

The Subordinate Judge,
Sankarankovil.

+1 CC TO M/s. M.PRAKASH, ADVOCATE IN SR.NO. 41014

Judgment made in

**CMA(MD) No.752 of 2016
29.07.2016**

ER

CSL/SKS-RR/04.01.2017 : 3P/3C