



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2016

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) .No.792 of 2016

and

C.M.P. (MD) No.7650 of 2016

THE MANAGING DIRECTOR
TAMIL NADU STATE TRANSPORT CORPORATION LIMITED,
MADURAI REGION, NAGARCOIL,
KANYAKUMARI DIST. .. APPELLANT/1st RESPONDENT

Vs.

1 D.DUNAHUSTHA .. 1st RESPONDENT/PETITIONER
2 S.JOHN SUNDRARAJ
3 THE DIVISIONAL MANAGER,
THE ORIENTAL INSURANCE COMPANY LIMITED,
BANGUR DHARMASALA, WEST VELI STREET,
MADURAI-1. .. RESPONDENTS 2 & 3/
RESPONDENTS 2 & 3

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to allow this appeal, set aside the Judgment and Decree made in M.C.O.P.No.409/2012, dated 15.10.2015 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Madurai.

For Appellant : Mr.P.Prabhakaran

JUDGMENT

Aggrieved over the award dated 15.10.2015 passed by the Motor Accidents Claims Tribunal(Chief Judicial Magistrate), Madurai in M.C.O.P.No.409 of 2012, the appellant/Transport Corporation has preferred this appeal.

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



3. According to the claimant, on 16.04.2011 he was travelling in a bus belonging to the appellant/Transport Corporation bearing Registration No.TN 74-N-1338 from Madurai Mattuthavani bus stand to Valliyur. The bus was driven in a rash and negligent manner, dashed against the lorry coming from the opposite direction near Virudhunagar Bye-pass road. In the accident, he suffered grievous injuries and his right hand has been amputated. A petition was filed claiming compensation of Rs.6,00,000/-, alleging that the driver of the bus was responsible for the accident.

4. The appellant resisted the claim contending that the driver of the lorry was negligent and a criminal case was registered against him.

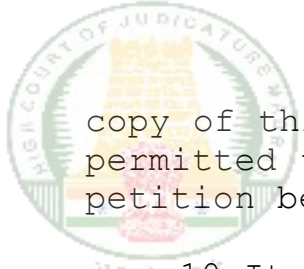
5. During the trial, P.W.1, claimant deposed in support of the allegations, as set out in the claim petition. The third respondent produced Ex.R.2 Rough Sketch to show that the bus came in the wrong side and caused the accident. The Tribunal accepting the evidence of P.W.1 and Ex.R.2 held that the driver of the bus was responsible for the accident.

6. P.W.1 deposed that he has taken treatment in a Government Hospital as an in-patient from 16.04.2011 to 18.06.2011 and Ex.P.2 is the case sheet issued by Government Rajaji Hospital, Madurai. P.W.1 has further stated that his right hand was amputated on 19.04.2011 and skin grafting was also done on 30.05.2011. P.W.3 Dr.Shanmugam has given evidence stating that the claimant has suffered 85% permanent disability. Ex.P.3 is Disability Certificate and Ex.P.4 is X-Ray.

7. The Tribunal, based on the evidence, has assessed the disability as 60% and awarded Rs.1,80,000/- by applying Rs.3,000/- per percentage. In addition Rs.22,500/- was awarded towards loss of earning of five months; Rs.5,000/- towards attendant charges; Rs.20,000/- towards medical expenses; Rs.50,000/- towards pain and suffering; Rs.15,000/- towards extra nourishment; Rs.500/- towards damage to the cloth and articles and Rs.1,000/- towards transport expenses. In total, the Tribunal has awarded Rs.2,94,000/- together with interest at 7.5% p.a.

8. In my considered view, the award passed by the Tribunal is fair and reasonable, which does not warrant interference by this Court.

9. **In fine**, the award passed by the Tribunal dated 15.10.2015 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 proportionate interest and costs, if not already deposited, within a period of eight weeks, from the date of receipt of the



copy of this Judgment. On such deposit being made, the claimant is permitted to withdraw the entire amount, without filing any formal petition before the Tribunal.

10. It is represented by the learned counsel for the appellant that the bus bearing Registration No. TN 58-N-1786 has been attached on 22.06.2016. Since the appellant is given time to deposit the award amount, the Executing Court shall release the vehicle forthwith. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar.

To

Chief Judicial Magistrate,
The Motor accident claims Tribunal,
Madurai.

Copy to :

The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

+1 cc to M/s. P. Prabhakaran, Advocate in SR.No.43552

pmu
SMA/SKS-RR/06.01.2017 : 3P-4C

C.M.A. (MD) .No.792 of 2016
and
C.M.P. (MD) No.7650 of 2016
10.08.2016