



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) .No.936 of 2016

and

C.M.P. (MD) No.8456 of 2016

Tamil Nadu State Transport Corporation Ltd.,
Through its General Manager,
Office at Vannarapettai,
Tirunelveli

... Appellant/Respondent

Vs.

Jeya Sundaresan

...Respondent/Petitioner

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to set aside Award and Decree made in M.C.O.P.No.696 of 2010, dated 25.10.2013 on the file of the Motor Accidents Claims Tribunal/Additinal Subordinate Court, Tirunelveli.

For Appellant : Mr.P.Prabhakaran

JUDGMENT

The Transport Corporation has preferred this appeal, challenging the award passed by the Motor Accidents Claims Tribunal(Additional Subordinate Court), Tirunelveli, in M.C.O.P.No.696 of 2010, dated 25.10.2013.

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

3. **Brief facts of the case** are that on 28.08.2010 the claimant was travelling as a passenger in the bus belonging to the appellant/Transport Corporation bearing Registration No.TN 33-N-1061 from Thiruchendur to Muthiyapuram and at 9.00 p.m., the driver, who was driving the bus in a high speed, suddenly applied the break, due to which the claimant was thrown out from the bus and sustained grievous injuries. He was immediately taken to Rajam Hospital where he took treatment as an in-patient from 28.10.2010 to 02.09.2010. He was then referred to A.V.M.Hospital at Tuticorin and he had taken treatment as an in-patient from 02.09.2010 to 22.09.2010. A claim was made for Rs.20,00,000/-, alleging that the driver of the bus caused the accident.

<https://hcservices.ecourts.gov.in/hcservices/>

4. The appellant opposed the claim refuting the allegations made in the claim petition. It is further stated that for the



alleged accident on 28.08.2010, a criminal complaint was given only on 04.10.2010. So, the claim has to be rejected.

5. In order to fortify the case of the claimant, he himself examined as P.W.1 and produced Ex.P.1 First Information Report, Ex.P.2 Observation Mahazar, Ex.P.3 Site Map, Ex.P.4 is the Report of Motor Vehicle Inspector and Ex.P.5 is the Charge Sheet filed by the police against the driver of the bus. The Tribunal, after analyzing the evidence disbelieved the case of the appellant and came to the conclusion that the driver of the bus was responsible for the accident.

6. P.W.1 has marked Ex.P.6 Wound Certificate, Ex.Ps.7 and 15 X-Ray, Ex.Ps.8,9 and 12 Scan Reports, Ex.P.10 O.P.Sheet and Ex.P.11 Discharge Summary issued by the private hospital. P.W.2 Dr.Ramaguru has deposed that the claimant has suffered 30% permanent disability. Ex.P.14 is the Disability Certificate. The Tribunal accepting the evidence of P.W.2 and Ex.P.14, awarded Rs.60,000/- towards permanent disability by applying Rs.2,000/- per percentage.

7. In addition, the Tribunal awarded Rs.75,653/- towards medical expenses; Rs.2,000/- towards extra nourishment; Rs.2,000/- towards transportation; Rs.2,000/- towards Attendant charges; Rs.25,000/- towards pain and suffering and Rs.6,000/- towards loss of income during the treatment period. The Tribunal has totally awarded Rs.1,72,653/- along with interest at 7.5% p.a.

8. In my considered view, the quantum awarded 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 25.10.2013 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 eight weeks, from the date of receipt of the copy of this Judgment.

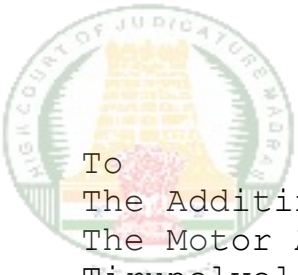
10. On such deposit being made, the claimant is permitted to withdraw the entire award amount along with proportionate interest and costs, without filing any formal petition before the Tribunal. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar



To
The Additinal Subordinate Judge,
The Motor Accidents Claims Tribunal,
Tirunelveli.

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+1 cc to MR.P.PRABHAKARAN, Advocate SR.No.49875

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