

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.01.2017

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THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.143 of 2017 and
CMP.No.1000 of 2017

The Managing Director,
Metropolitan Transport
Corporation (Chennai) Limited
Pallavan House, Chennai - 2 .. Appellant/Respondent

Versus

A.Jahir Hussain .. Respondent/Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1989 against the Judgment and Decree dated 06.08.2013 made in M.C.O.P.No.3533 of 2010 on the file of the Motor Accident Claims Tribunal, (IV Court of Small Causes) Chennai.

For Appellant : Mr.S.Sivakumar

J U D G M E N T

Challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal, in M.C.O.P.No.3533 of 2010, dated 06.08.2013, the Transport Corporation has filed this Civil Miscellaneous Appeal.

Brief Facts:-

2. On 10.03.2010 at about 2.00 p.m., when the respondent/claimant, who was Assistant Manager in M/s MAC International, Chennai, was driving his two wheeler bearing registration No.TN 09 KA 3909 from south to north direction in Jawaharlal Nehru 100 feet road near Olympia sitbut signal, at that time, the MTC bus bearing Reg.No.TN 01 N 5793, driven in a rash and negligent manner, hit a car bearing Reg.No.TN 31 AB 0139 and also the claimant's two wheeler due to which, the claimant sustained crush injury and his muscles were totally damaged. Hence, he filed a claim petition in M.C.O.P.No.3533 of 2010, on the file of Motor Accident Claims Tribunal / IV Court of Small Causes, Chennai, claiming compensation in a sum of Rs.10,00,000/-.

3. The Appellant / Respondent by way of a counter before the trial Court has submitted that the driver of the bus was not

at all responsible for the accident and that the accident was only due to the rash riding of the claimant and the claimant does not possess valid driving license at the time of accident. Further, it was submitted that the compensation claimed under the different heads were very high.

4. The Tribunal, after considering the submissions made on either side and also on considering the oral and documentary evidence, awarded compensation of Rs.4,27,420/=-, the break-up of which is as hereunder :-

Loss of earning	:	Rs. 24,000/-
Transport to Hospital	:	Rs. 5,000/-
Extra nourishment	:	Rs. 10,000/-
Loss of amenities	:	Rs. 10,000/-
Medical Expenses	:	Rs.2,18,420/-
Pain and suffering	:	Rs. 40,000/-
Disability of 60% at Rs.2,000/- per percentage:		Rs.1,20,000/-
Total		Rs.4,27,420/-

Challenging the same, the Transport Corporation has filed this present appeal.

5. According to the appellant / transport corporation, the Tribunal has wrongly held that the driver of bus was responsible for accident. It is the further contention of the appellant that the compensation awarded by the Tribunal under the different heads are excessive.

6. Per contra, learned counsel for the claimant/respondent submits that the the Tribunal has rightly fixed the negligence on the driver of the bus and the compensation quantified by the Tribunal is just and reasonable and, therefore, no interference is called for.

7. In order to appreciate the rival contentions, it is necessary to go into the details regarding nature of injury suffered by the claimant and period of treatment.

8. A Perusal of the award passed by the Claims Tribunal reveals that the Tribunal, after considering the evidence of P.W.2 and Exs.P18 and P17- Disability certificate and X-ray has fixed the disability @ 60%. The Tribunal, further, considering the age of the petitioner adopting per percentage method, has awarded a sum of Rs.1,20,000/- as compensation as Rs.2,000/- per percentage of disability. The said quantification cannot be said to excessive or unreasonable. Accordingly, the same is confirmed.

9. Insofar as the amounts awarded under the head Transportation, Extra Nourishment, Loss of amenities, Medical Expenses, Pain and Suffering are concerned, a careful perusal of the same coupled with the injuries sustained, the treatment taken and the disability suffered, would reveal that the Tribunal has adopted a conservative approach and awarded the compensation and they cannot be said to be excessive or unreasonable.

10. The Tribunal, fixing the salary at Rs.8,000/-, has awarded a sum of Rs.24,000/- under the head Loss of earning for a period of three months. The injuries suffered by the claimant would definitely have taken a period of three months atleast to get healed. Therefore, the compensation awarded under the above head also does not warrant any interference.

11. Though a feeble attempt was made by the appellant regarding the aspect of negligence, however in the absence of any material available on record the Tribunal has fixed negligence on the driver of the bus. Even before this Court, no material worth the reference has been placed to arrive at a different finding. Therefore, finding no merit in the said submission, the same is rejected.

12. For the reasons aforesaid, this Civil Miscellaneous Appeal is dismissed, confirming the Judgement and Decree dated 06.08.2013, made in M.C.O.P.No.3533 of 2010, on the file of Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai. No costs. Consequently, connected Miscellaneous Petition is dismissed.

13. The appellant is directed to deposit the entire award amount along with interest as ordered by the Tribunal to the credit of the claim petition within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-

Assistant Registrar (CS-iv)

//True Copy//

Sub Assistant Registrar

arr/GLN

To

1. The Managing Director,
Metropolitan Transport
Corporation (Chennai) Limited
Pallavan House, Chennai - 2

2. The Motor Accident Claims Tribunal,
(In the IV Court of Small Causes)
Chennai.

3. The Section Officer, VR Section,
High Court, Madras. (2 copies)

C.M.A. No.143 of 2017 and
CMP.No.1000 of 2017

rj (CO)
TR(26/02/2018)



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