

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.144 of 2017 and
CMP.No.1001 of 2017

The Managing Director
Metropolitan Transport Corporation Ltd
Pallavan Salai, Chennai-2 .. Appellant/Respondent

Versus

H.Masthan Khan .. Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1989 against the Judgment and Decree dated 19.03.2014, made in M.C.O.P.No.4854 of 2012, on the file of the Motor Accidents Claims Tribunal (II 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.4854 of 2012, dated 19.03.2014, the Transport Corporation has filed this Civil Miscellaneous Appeal.

2. The Claimant, aged 44 years, a proprietor of Zeenath Dresses, earning a sum of Rs.30,000/- per month, met with an accident on 24.07.2012 due to which he sustained grievous injuries and amputation of left leg below knee. Hence, the claimant filed M.C.O.P.No.4854 of 2012, seeking compensation for a sum of Rs.20,00,000/-.

3. The Claims Tribunal, on consideration of oral and documentary evidence has awarded a compensation for a sum of Rs.12,13,550/-. The break-up details of the same are as under:

Transportation	-	Rs.10,000/-
Extra nourishment	-	Rs.10,000/-
Damage to clothes	-	Rs. 1,000/-
Medical Expenses	-	Rs. 47,550/-
Attender charges	-	Rs. 50,000/-
Loss of amenities of life	-	Rs.1,00,000/-

Artificial limb	-	Rs. 55,000/-
Pain and suffering	-	Rs.1,00,000/-
Loss of earning capacity		
Rs.10,000x12x14x50%	-	Rs.8,40,000/-

Total		Rs.12,13,550/-

4. The learned counsel for the appellant-Transport Corporation submits that the compensation awarded by the Tribunal is highly excessive and the same has to be reduced. It is his further submission that the claimant drove the cycle in a zig zag manner without following the traffic rules and therefore the accident occurred and therefore the accident happened only on account of the negligence on the part of the injured and the tribunal ought to have fixed 50% of negligence on the part of the claimant.

5. A Perusal of the award passed by the Claims Tribunal reveals that though P.W.2-Doctor has assessed the disability @ 60% and issued Ex.P10- disability certificate, the Tribunal has fixed disability @ 50%. Further, the Claims Tribunal, on considering the Exs.P1 to P3 has rightly fixed the negligence on the part of the driver of the appellant Corporation bus. The contention of the learned counsel for the appellant that the claimant also contributed to the accident is not supported by any material on record. In the absence of any material on record to fasten contributory negligence on the part of the injured, the finding of the Tribunal that the accident happened due to the negligence on the part of the driver of the bus deserves to be sustained.

6. Insofar as the compensation awarded under the other heads , viz., Transportation, Extra nourishment, Damage to Clothes, Medical Expenses, Attender charges, Loss of amenities of life, Pain and sufferings, considering the injuries sustained by the claimant, the treatment undergone and the impact of the injuries on the future life of the claimant, this Court is of the view that the amounts awarded cannot be said to be excessive and the amounts awarded are just and reasonable.

7. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the Judgement and Decree dated 19.03.2014, made in M.C.O.P.No.4854 of 2012, on the file of Motor Accident Claims Tribunal (II Court of Small Causes), Chennai. No costs. Consequently, connected Miscellaneous Petition is closed.

8. The appellant/Transport Corporation is directed to deposit the entire award amount, less the amount, if any, already deposited, along with interest at the as ordered by the Tribunal from the date of petition till the date of deposit, to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made the Tribunal is directed to transfer the amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-

Assistant Registrar (CS-VIII)

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Sub Asst. 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 II Court of Small Causes)
Chennai.
3. The Section Officer, VR Section,
High Court, Madras. (2 copies)

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