

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2017

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

CMA No.489 of 2017
and
C.M.P.No.3210 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation
Limited (Coimbatore Div.2),
Chennimalai Road, Erode. ... Appellant/2nd Respondent

Vs

1. Govindaraj
2. P.Duraisamy ... Respondents/Petitioner 4/
1st Respondent

Appeal against the judgment and decree dated 30.10.2014
passed in MCOP.No.134/2010 on the file of the Motor Accidents
Claims Tribunal and IV Additional District Judge, Erode District
at Bhavani.

For Appellant : Mrs.R.T.Sundari
For 1st Respondent : Mr.Ma.P.Thangavel
For 2nd Respondent : Ex-parte before Tribunal

J U D G M E N T

The Tamil Nadu State Transport Corporation is the appellant
herein.

2. The claimant/1st respondent, who sustained fracture on
his right leg and disfiguration on his left leg below the knee
and also sustained grievous injuries all over his body in the
accident that took place on 01.08.2007 in which the TVS Centra
Bike bearing Registration No.TN 33 AZ 3136 was hit by the
appellant Transport Corporation Bus bearing Registration No.TN
33 N 0981, has filed a Claim Petition before the Court below
claiming a compensation to a sum of Rs.5,00,000/-. The
Tribunal, on appreciation of oral and documentary evidence,
passed an award for a sum of Rs.2,62,770/- with interest at the
rate of 7.5% per annum from the date of petition till the date

of deposit. Questioning the same, the present appeal has been filed by the Transport Corporation.

3. The learned counsel appearing for the appellant/Transport Corporation states that they are mainly aggrieved by the quantum of compensation determined by the Tribunal as well as the findings rendered by the Tribunal by fixing the negligence on the part of the driver of the bus owned by the Transport Corporation. According to him, the compensation awarded under all the heads are on the higher side. Further, the accident was due to the rash and negligence of the rider and pillion rider of the Motor Vehicle since both of them did not wear helmet at the time of accident. Therefore, the award of the tribunal has to be set aside.

4. The learned Counsel for the 1st respondent/claimant submits that the accident was due to the rash and negligent driving of the driver of the appellant Transport Corporation bus. He further submits that the compensation awarded under all the heads are just and reasonable which does not warrant any interference at the hands of this Court.

5. I have considered the submissions made on either side and I have also perused the records carefully.

6. On a perusal of the typed set filed along with the appeal papers and the award, it is seen that at the time of the accident, the claimant was a pillion rider of the TVS Centra Bike. Though it is disputed that the claimant and the driver of the said bike are only the main cause for the accident by their rash and negligent driving and non-wearing of the helmet, no case has been filed against them in this regard. It also comes to light that the claimant has suffered fatal injuries all over his body apart from a fracture on his right leg and disfiguration on his left leg through the Medical records such as Wound Certificate Ex.P.5, Discharge Summary Ex.P.7, Scan Report Ex.P.8 and Case Summary Ex.P.9 and he was treated as inpatient. Further, P.W.2 Doctor R.Krishnasamy, who treated the claimant, has assessed his disability as 40% due to the said accident. Hence, the disability of the claimant was assessed at 40% and a sum of Rs.80,000/- (40% x 2000) was awarded by the Tribunal. Likewise, a sum of Rs.92,770/- was awarded towards medical bills for which, the claimant has produced all the relevant bills. Accordingly, for pain and sufferings Rs.25,000/-, for Extra Nourishment Rs.10,000/-, for Transportation Charges Rs.10,000/-, for loss of income during treatment period Rs.18,000/- by taking a very reasonable amount of Rs.4,500/- p.m., for damages to clothing and articles Rs.2000/- and for dis-figuration of his left leg Rs.25,000/- have been awarded by the Tribunal which are very just and

reasonable. Therefore, this Court finds no reasons to interfere with the said award of the court below.

7. In the result, the Civil Miscellaneous Appeal is dismissed by confirming the award of the Tribunal. The appellant-Transport Corporation is directed to deposit the entire award amount of Rs.2,62,770/- with interest at 7.5% p.a. from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this order, if not deposited already. The claimant/1st respondent is also permitted to withdraw the entire award amount with interest. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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To

The Motor Accidents Claims Tribunal
and IV Additional District Judge,
Erode District at Bhavani.

2. The Section Officer,
VR Section,
High Court, Madras.

CMA NO.489 of 2017

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