

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 19.12.2017

CORAM

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A. No.2992 of 2007

&

CMP No.1 of 2007

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Bharathipuram, Salem Road,
Dharmapuri - 5.Appellant/2nd Respondent

Vs.

1. M. Jothi
2. K. SidhaiyanRespondents/Petitioner/
Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the award made in MCOP No.109 of 1999, dated 31.01.2007 on the file of the Motor Vehicles Accident Claims Tribunal and Sub Court at Hosur.

For Appellant : Mr.D.Venkatachalam

For Respondents : Mr.V.Kumaravelan

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Transport Corporation against the award made in MCOP No.109 of 1999, dated 31.01.2007 on the file of the Motor Accident Claims Tribunal and Sub Court at Hosur.

2. The accident had occurred on 21.11.1997 at about 4.30 a.m., while the transport corporation bus was proceeding near Hosur. At that time, the vehicle was driven in a rash and negligent manner by its Driver and when he tried to over take the lorry and the bus proceeded in front of the same, and while the bus was nearing the bridge, it hit against the tanker lorry on its right side. Hence, the accident had occurred due to rash and negligent driving of the bus driver of the Transport Corporation.

3. The Tribunal has assessed the evidence and documents. The FIR was filed against the driver of the bus/ Transport Corporation and fixed the liability on the driver of the bus and after verifying the documents and evidence placed before the Tribunal, more particularly the disability certificate issued by the Doctor / PW-3 in which, the disability was determined at 55%.

4. Heard both sides and perused the material available on record.

5. The Tribunal has passed an award for Rs.1,40,000/- and the break up details of the same are as under :-

Sl. No.	Heads	Amount Rs.
1	Pain and suffering	50,000/-
2	Permanent Disability	30,000/-
3	Medical expenses	51,000/-
4	Nourishment and Transport expenses	9,000/-
	Total	1,40,000/-

6. Aggrieved against the compensation awarded by the Tribunal, the transport Corporation has preferred this appeal.

7. On perusal of the records, it is evident that the injured was treated as inpatient for a period of two months and during the year 2000, she has also underwent surgery for removal of rods. PW3, the Doctor, who has assessed the disability as 55% has issued the disability certificate, only in the year 2006, which was much after the discharge of the claimant. Further, the discharge summary, which forms part of the record does not reveal anything about the claimant being discharged with certain complaints relating to the surgery. The order of the Tribunal is silent on the aspect, which clearly shows that the Tribunal has not dealt with the issue. Regarding medical expenses, the medical bills have been furnished for a sum of Rs.1,51,575/-, for which the Tribunal finds that all are not reliable and not authenticated and awarded only a sum of Rs.51,000/-. The sum awarded under the head permanent disability at Rs.30,000/- for 30% disability is also a proper one. Further for pain and sufferings a sum of Rs.50,000/- and for Nourishment and Transport expenses, the sum awarded at Rs.9000/- are all reasonable one.

8. Insofar as award of interest on the compensation amount is concerned, though the Tribunal has awarded as 9% p.a. as

interest, this Court feels that the interest at the rate of 7.5% p.a. would be just and reasonable. Accordingly, the Civil Miscellaneous Appeal is dismissed with the modification insofar as the portion of interest alone is concerned. Consequently, connected miscellaneous petition is closed. No costs.

9. The appellant /Transport Corporation is directed to deposit the entire award amount along with interest @ 7.5% p.a. and costs as ordered by the Tribunal, less the amount already deposited, if any, 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 award amount directly to the bank account of the claimant, through RTGS, within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mm/vsi2

To

The Motor Accident Claims
Tribunal and Sub Court at Hosur.

Copy To
The Section Officer,
VR Section,
High Court, Madras

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.90541

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