

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2017

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

CMA.No.2590 of 2006
and MP.No.1 of 2006

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram. ...Appellant/Respondent

Vs.

1.K.Babu
2.K.Palaniammal ...Petitioner/Respondent

3.United India Insurance Co. Ltd.,
No.52, Kutchery Road,
A.K.T. Complex,
Kallakurichi. ...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988 against the decree and judgment passed by the learned Motor Accident Claims Tribunal (Additional District Tribunal Judge, Fast Track Court No.3), Vridhachalam made in MCOP.No.161 of 2005, dated 31.10.2006.

For Appellant : Mr.S.V.Vasanth Kumar
For Respondents : Mr.S.Udaya Kumar [R1]
R2 & R3 - No appearance

JUDGMENT

One Babu suffered injury in a road accident that took place on 10.8.2003 when a bus bearing registration No.TN32-H-01161 belonging to the appellant had dashed against the car that was driven by him and belonged to the second respondent herein. For the various injuries that he had suffered he moved the Tribunal with a claim of Rs.4,00,000/- as compensation. But the Tribunal has found that the just compensation payable to him is only Rs.1,34,450/- with interest at 9% per annum. It has found that the claimant was also equally contributed to the occurrence of the accident and consequently reduced his claim by 50%, and mulcted the balance liability on the appellant/Transport Corporation. Aggrieved by that, the Transport Corporation has preferred this appeal.

2. The learned counsel for the appellant submitted that since the Tribunal has found that the claimant was entirely negligent for the cause of accident, it should have exonerated the appellant of any liability. Turning to the quantum, the learned counsel argued that the claimant was a driver by avocation and the Tribunal was unduly sympathetic to the injuries of the claimant and it has fixed Rs.3,500/- as his monthly income and this is on the higher side and at any rate, it should not have adopted multiplier method but should have only granted compensation treating the injury as a grievous injury.

3. On perusing the award of the Tribunal, the Tribunal has gone into the meticulous details as to how the accident took place and very correctly apportioned the liability. So far as the quantum is concerned, P.W.2, the doctor's evidence has been carefully assessed by the Tribunal. The most important aspect is that the doctor's evidence regarding stretchability of the right leg of the claimant in which he suffered fracture to femur, and taking into account that he was a driver and movement of his right leg is impaired, it adopted a multiplier method. Even here it did not mindlessly accept the percentage of disability at 47% as was determined by the doctor, but treated it only at 35%, i.e., some 12% below the doctor's assessment.

4. I find nothing wrong either in the notional monthly income fixed by the Tribunal nor its option to adopt multiplier method. To conclude, I do not find merit in this appeal and hence it is dismissed. No costs. The appellant is directed to deposit the amount awarded by the Tribunal less if any already deposited, within four weeks from the date of receipt of a copy of this order, whereupon the claimant is entitled to withdraw the same forthwith. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ds

To

1.The Motor Accident Claims Tribunal
Additional District Court
Fast Track Court No.III
Virudhachalam.

+1 cc to Mr.S.V.Vaanthakumar Advocate sr 64520

CMA.No.2590 of 2006

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