



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.08.2017
CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2642 of 2017
and
C.M.P.No.14519 of 2017

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai, Chennai 600 002. Appellant/Respondent

Vs.

L.Srinivasan Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 to set aside the judgment and decree passed in M.C.O.P.No.194 of 2003, dated 11.01.2005, on the file of Motor Accident Claims Tribunal (Additional District & Sessions Judge, Fast Track Court No.IV) at Poonamallee.

For Appellant : Mr.M.Krishnamoorthy

J U D G M E N T

The appeal has been filed by the Transport Corporation challenging the finding on negligence as well as the quantum of compensation.

2. The injured, L.Srinivasan, aged 27 years, working as a mechanic of Mosaic Polishing and Marble cutting machine, earning a sum of Rs.6,000/- per month, suffered an accident on 30.03.2003. Hence, he filed a claim petition in O.P.No.194 of 2003, claiming damages at Rs.7,00,000/-, but restricted the claim to Rs.3,50,000/-.

3. It is alleged that when the petitioner was riding his Bajaj M80 from Otteri to Ayanavaram, the bus belonging to the appellant came in the opposite direction in rash and negligent manner and hit against the injured causing grievous injury.

4. The Tribunal on consideration of oral and documentary evidence awarded a sum of Rs.1,54,121/- as compensation, the break up of which is as under :-



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Disablement compensation	-	Rs. 45,000/-
Future medical expenses and		
Pain and sufferings	-	Rs. 45,000/-
Loss of income	-	Rs. 60,000/-
Extra nourishment and		
transport expenses	-	Rs. 3,000/-
Medical Expenses	-	Rs. 1,121/-

Total	-	Rs.1,54,121/-

5. The appellant, challenging the quantum as excessive and disproportionate to the injury suffered has filed the present appeal.

6. The learned counsel for the appellant assailed the order of the Tribunal contending that the Tribunal has not considered the contributory negligence in its proper perspective. It is also further contended that the quantum of compensation awarded is excessive and needs proportionate reduction.

7. This Court gave its anxious consideration to the contention advanced by the learned counsel for the appellant as also the materials available on record and the order passed by the Tribunal.

8. Insofar as negligence is concerned, the Tribunal, considering the materials available on record as also the evidence and the investigation of the police and that the charge sheet has been filed against the Driver of the appellant Transport Corporation came to the conclusion that the negligence was only on the part of the appellant. Though mere contention is raised with regard to negligence, the appellant has not adduced any convincing or reasonable material to differ from the finding rendered by the Tribunal fastening the negligence on the appellant. Therefore, this Court is of the considered opinion that the finding on negligence has to be confirmed and, accordingly, the same is confirmed.

9. Insofar as the quantum of compensation is concerned, the records reveal that claimant was in-patient in the hospital for a considerable period of time. The claimant had suffered fracture of right thigh, surgery has been done on knee and screws and rod have been used for uniting the thigh bone. Dr.N.Saichandiran, PW-2 has been examined to speak about permanent disablement. The Doctor has certified the disability at 50%. However, the Tribunal fixed the functional disablement at 45% and has awarded compensation of Rs.45,000/- for 45% of disablement at Rs.1,000/- per percentage of disability and a further sum of Rs.45,000/-has been awarded towards future medical expenses for removal of implant and pain and sufferings.



10. Considering that there has been shortage of three inches in leg and the claimant finds difficulty in performing his regular duties, fixing the monthly income at Rs.2500/- and considering that the claimant will not be able to do any work for a period of two years, the loss of income has been awarded at Rs.60,000/-; extra nourishment and transport expenses at Rs.3,000/- and medical expenses Rs.1,121/- has been awarded . Thus, the Tribunal has quantified the amount of compensation at Rs.1,54,121/-, which is rounded of Rs.1,54,100/-.

11. The details of award passed above reveal that disablement compensation has been awarded at Rs.1,000/- per percentage, which is the standard procedure in the year 2003. The compensation awarded under the other heads are also just and reasonable and cannot be said to be excessive or disproportionate to the injury. Further, it is to be pointed out that no compensation has been awarded towards loss of enjoyment of amenities. In such view of the matter, this Court is of the considered opinion that no interference is warranted with the award passed by the Tribunal.

12. For the reasons aforesaid, this Civil Miscellaneous Appeal is liable to be dismissed and, accordingly, the same is dismissed. Consequently, connected Civil Miscellaneous petition is closed. No costs.

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

Sd/-
Assistant Registrar(CS-VII)

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Sub Assistant Registrar

Kv/GLN



To

1. (Additional District &
Sessions Judge, Fast Track Court No.IV)
Motor Accident Claims Tribunal at Poonamallee.

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

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and
C.M.P.No.14519 of 2017

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TR(27/03/2018)