



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. (MD) No.197 of 2017

and

C.M.P (MD) No.2382 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
New Junction Road,
Kumbakonam town & Munsif.

... Appellant/Respondent

Vs.

Prabaharan

... Respondent/Petitioner

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and award made in M.C.O.P.No.644 of 2010, dated 18.12.2012, on the file of Motor Accidents Claims Tribunal, Additional District & Sessions Court/E.C.Act Special Court, Thanjavur.

For Appellant : Mr.V.Sriram

For Respondent : Mr.N.Tamilmani for
Mr.D.Veerasekaran

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JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant-Transport Corporation against the award, dated 18.02.2012 made in M.C.O.P.No.644 of 2010 passed by the Motor Accidents Claims Tribunal - Additional District & Sessions Court/E.C. Act Special Court, Thanjavur.

2.The appellant/Transport Corporation is the respondent in the claim petition. The respondent/Claimant filed a claim petition in M.C.O.P.No.644 of 2010 claiming a sum of Rs.3,00,000/- as compensation, for the injuries sustained by him, in the accident that occurred on 23.12.2007.

Facts of the Case:

3. According to the respondent/claimant, on 23.12.2007 at about 5.30 a.m., at Chennai Kolappakkam Road while he was travelling in the bus bearing Registration No.TN-49-N-1464 belonging to the



appellant, the driver of the bus drove the vehicle in a rash and negligent manner and dashed against the bus bearing registration No.TN-07-AA-7999 which was stationed on the left side of the road and caused accident. In the said accident, the respondent/claimant and other passengers sustained multiple injuries. The respondent/claimant was admitted in the Government Hospital, Chengalpat and subsequently, he was admitted in the Government Medical College Hospital, Thanjavur from 24.12.2007 and 25.12.2007. Further, he was continuously taking treatment for six months as out-patient. He was working as agricultural coolie and was earning Rs. 3,000/- per month. He could not do any work as he was doing earlier. A case was registered against the driver of the bus belonging to the appellant. Therefore, the respondent/claimant filed the Claim petition against the respondent claiming a sum of Rs. 3,00,000/- as compensation.

4. The appellant/respondent filed the counter statement and denied all the averments made in the claim petition. According to the appellant, the accident occurred only due to the rash and negligent driving of the driver of one Omni Bus that was coming at a high speed from behind and in order to avoid accident, the driver of the appellant turned on the left side and due to that, he dashed against the Tourist bus, which was stationed at that place. The driver of the appellant is not responsible for the accident. The respondent/claimant suffered only simple injuries. The appellant is not liable to pay any compensation.

5. Before the Tribunal, the respondent/claimant examined himself as P.W.1 and one Dr.Rethinasabapathi was examined as P.W.2 and marked five documents as Exs.P.1 to P.5. The appellant did not let in any oral and documentary evidence.

6. The Tribunal, considering the pleadings, oral and documentary evidence and arguments of the learned Counsel for the parties, came to the conclusion that the accident occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant/Transport Corporation and considering the evidence of P.W.2 and disability certificate with regard to percentage of disability suffered by the respondent, awarded a sum of Rs.72,000/- as compensation.

7. Aggrieved by the said award, dated 18.12.2012, the appellant/Transport Corporation has filed the present appeal.

8.I have heard the learned Counsel appearing for the appellant and the learned Counsel appearing for the respondent and perused all the materials available on record.

9.From the materials available on record, it is seen that the Tribunal, considering the evidence of P.W.1 came to the conclusion that the accident took place only due to the rash and negligent driving of the driver of the appellant. The Tribunal also took note

of the fact that appellant did not let in any evidence to disprove the same. The Tribunal held that the driver alone is responsible for the accident. Further, The respondent/claimant suffered 21% of partial permanent disability. The Tribunal awarded a sum of Rs. 42,000/- (Rupees Fortytwo Thousand only) at the rate of Rs.2,000/- (Rupees Two Thousand Only) towards 1% permanent disability. At the time of accident, as per the guidelines of this Court a sum of Rs. 1,500/- is fixed towards 1% permanent disability.

10. Therefore, it is seen that a sum of Rs.2,000/- fixed by the Tribunal towards 1% permanent disability is reduced to **Rs.1,500/-** towards 1% permanent disability. Accordingly, the respondent/claimant is entitled to a sum of **Rs.31,500/-** (Rupees Thirtyone Thousand and Five Hundred Only) for 21% partial permanent disability.

11. A sum of **Rs.20,000/-** (Rupees Twenty Thousand only) was rightly awarded by the Tribunal towards pain and sufferings and the same is confirmed.

12. Further, a sum of **Rs.10,000/-** (Rupees Ten Thousand only) was awarded by the Tribunal towards Transportation charges extra nourishment, loss of income for the treatment period and other expenses and this Court confirms the same.

13. The rate of interest awarded by the Tribunal at 7.5% per annum is confirmed.

14. Accordingly, the respondent-claimant is entitled to a sum of **Rs.61,500/-** (Rupees Sixtyone Thousand Five Hundred Only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs.

15. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, reducing the award of the Tribunal from **Rs.72,000/-** (Rupees Seventytwo Thousand Only) to a sum of **Rs.61,500/-** (Rupees Sixtyone Thousand and Five Hundred Only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs;

(ii) The Respondent-Claimant is directed to submit his Savings Bank Account Detail along with the copy of his passbook to the Tribunal **forthwith**;

(iii) The appellant-Transport Corporation is directed to deposit the entire award amount along with accrued interest and costs, less the amount deposited, if any, to the credit of M.C.O.P.No.644 of 2010 on the file of the Motor Accidents Claims Tribunal - Additional District & Sessions Court/E.C. Act Special

Court, Thanjavur, within a period of **eight weeks** from the date of receipt of a copy of this judgment;

(iv) On such deposit, the Tribunal is directed to transfer the entire award amount along with accrued interest and costs directly to the Personal Savings Bank Account Number of the respondent-claimant, through RTGS/NEFT system, after getting his Account Details, within a period of **two weeks thereafter**; and

(v) In the facts and circumstances of the case, there shall be no order as to costs.

(vi) Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

1.The Additional District & Sessions Court
Motor Accidents Claims Tribunal/
E.C. Act Special Court, Thanjavur.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC TO MR.D.VEERASEKARAN,ADVOCATE,SR NO.14771
+1CC TO MR.D.SIVARAMAN, ADVOCATE, SR NO.14820

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MAS/SV-MMS:24.04.2017:4P-5C

C.M.A. (MD) No.197 of 2017
14.03.2017