



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A(MD) No.218 of 2017

and

C.M.P(MD)No.2597 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
New Railway Road,
Kumbakonam.

..Appellant/Respondent

vs.

Saiprasath

..Respondent/Petitioner

Prayer: The appeal filed under Section 173 of Motor Vehicle Act, 1988, against the award and decree made in M.C.O.P.No.77 of 2015, dated 27.07.2015, on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Thanjavur @ Kumbakonam.

For Appellant : Mr.P.Prabhakaran

JUDGMENT

Being aggrieved over the award passed by the Motor Accident Claims Tribunal-cum-Chief Judicial Magistrate Court, Thanjavur @ Kumbakonam in M.C.O.P.No.77 of 2015, the Transport Corporation has filed the present appeal.

2.The appellant Transport Corporation is the respondent in M.C.O.P.No.77 of 2015, on the file of the Motor Accident Claims Tribunal-cum-Chief Judicial Magistrate, Thanjavur @ Kumbakonam. The respondent is the claimant and the appellant is the owner of the vehicle. The respondent filed the claim petition in M.C.O.P.No.77 of 2015, claiming a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) as compensation for the injuries sustained by him in the accident that occurred on 04.08.2011. By the award, dated 27.07.2015, the Tribunal awarded a sum of Rs.2,04,445/- (Rupees Two Lakhs Four Thousand Four hundred and Forty Five only) as compensation.

3.Against the said award, the appellant-Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.Facts of the Case:-

According to the respondent, while he was riding his motorcycle bearing Registration No.TN-49-F-0063 at Tharasuram-Arasalaru Bridge from North to South. At that time, the bus belonging to the appellant bearing Registration No.TN-49-N-1953 was driven in a high speed and rash and negligent manner by its driver and caused against the motorcycle and caused accident. Due to the said impact, the respondent sustained multiple injuries and



he was taken to Government Hospital, Kumbakonam and thereafter, admitted in the Thanjavur Medical College Hospital and he was taking treatment as Inpatient and subsequently, he was taking treatment at Sudharsana Hospital, Trichy, as Inpatient. Due to the said injuries, he was not able to do his work as he was doing earlier. The FIR was registered against the driver of the appellant. The accident was occurred only due to the rash and negligent driving of the driver of the appellant. Therefore, he filed the claim petition, claiming a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) as compensation.

5.The appellant filed the counter statement and contended that the accident did not occur due to the rash and negligent driving of the driver of the bus and he was driving the bus slowly and cautiously and when he saw a lorry coming from opposite direction, he slow down the bus and one Ambassador Car coming in-front of the bus and at that time, the respondent over-took the lorry in a rash and negligent manner and dashed against the bus and got injured. The respondent himself invited the accident and caused injury and the accident occurred only due to his negligence. The driver of the appellant is not responsible for the accident and prayed for dismissal of the claim petition.

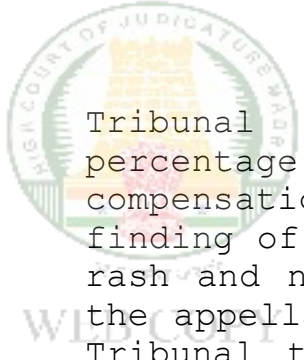
6.Before the Tribunal, the respondent examined himself as P.W.1 and one Doctor Mr.Vijayakumar was examined as P.W.2 and marked 12 documents as Ex.A1 to A12. The appellant examined one Ganesan, the driver of the bus as R.W.1 and did not mark any documents.

7.The Tribunal, considering the pleadings, oral and documentary evidence, came to the conclusion that the accident occurred only, due to the rash and negligent driving of the driver of the appellant Corporation and considering the nature of the injuries and treatment taken by the respondent awarded a sum of Rs.2,04,445/- (Rupees Two Lakhs Four Thousand Four Hundred and Fortyfive only) as compensation to the respondent in a different heads.

8.Against the said award, the appellant-Transport Corporation has filed the present appeal.

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

10.The contention of the learned counsel for the appellant that the Tribunal ought to have fixed the entire negligence on the respondent for the accident and compensation awarded is excessive. The said contention is untenable. The Tribunal considering the evidence of R.W.1-driver of the appellant. The appellant or his driver did not lodge any complaint against the respondent. The



Tribunal considered the evidence on record and fixed the percentage of disability on the respondent at 37% and awarded the compensation. In view of these facts, this Court confirmed the finding of the Tribunal that the accident occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant. As far as quantum of compensation is concerned the Tribunal taking into consideration the evidence of P.W.2 doctor and Exhibits with regard to nature of percentage of disability, medical bills produced by the respondent awarded a just compensation. The compensation awarded in respect of various heads are not excessive. It is only based on the documents produced by respondent.

11. In the result, this Civil Miscellaneous Appeal is dismissed. The appellant/Transport Corporation is directed to deposit the entire award amount to the credit of M.C.O.P.No.77 of 2015, on the file of the Motor Accidents Claims Tribunal - cum - Chief Judicial Magistrate, Thanjavur at Kumbakonam, less the amount already deposited, if any, along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the Tribunal is directed to transfer the award amount to the Personal Savings Bank Account Number of the claimant, after getting his Account Details, within a period of two weeks thereafter. No costs. Consequently, connected civil miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal
Chief Judicial Magistrate Court,
Thanjavur @ Kumbakonam.

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

+1cc to Mr.P.Prabhakaran, Advocate, SR.17266

C.M.A(MD) .No.218 Of 2017
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