



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A.No.127 of 2016
and C.M.P. (MD)No.2110 of 2016

The Managing Director,
The Tamil Nadu State Transport Corporation Ltd,
Madurai,
Bye pass Road,
Madurai Taluk,
Madurai District.

... Appellant/Respondent

Vs.

Chattaiyappan

... Respondent/ Petitioner

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment passed in M.C.O.P.No.214 of 2013 dated 26.03.2014 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Dindigul.

For Appellant : Mr.P.Prabhakaran
For Respondent : Mr.C.K.M.Appaji

JUDGMENT

This Civil Miscellaneous Appeal is directed under Section 173 of Motor Vehicles Act, 1988, by the Tamil Nadu State Transport Corporation, as against the award passed in M.C.O.P.No.214 of 2013 dated 26.03.2014 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Dindigul.

2. Heard the learned counsel appearing for the appellant/Transport Corporation and the learned counsel appearing for the respondent/claimant.

3. The facts in nutshell:

On 28.06.2012, at 12 noon, when the claimant was standing before the Government Hospital in Ottanchathiram-Dharapuram Road, the bus belongs to the appellant Transport Corporation bearing registration No. TN-67-0724 came in a rash and negligent manner and hit against him due to which the claimant sustained multiple injuries. A case in Crime No.350 of 2012 was registered against the driver for offences under Sections 279, 337 IPC. Claim



petition was filed claiming Rs.6,00,000/- before the Tribunal.

4. Before the tribunal, the claimant examined himself as P.W.1 and Doctor was examined as P.W.2 and Exs. P.1 to P.8 were marked and on the side of the appellant, the driver was examined as D.W.1 and no document was marked.

5. The Appellant would mainly contend that the Tribunal failed to fix the entire negligence on the injured, who was trying to cross the road from left side to right side without noticing the coming bus and dashed on the front left side of the bus and thus invited the accident and that the injured was solely responsible for the accident.

6. The learned counsel for the appellant further argued that the Tribunal has erred in awarding a sum of Rs.3,000/- (Rupees Three Thousand only) for 1% disability and the amount awarded under the disability at Rs.1,05,000/- (35 X 3000) is too high.

7. The learned counsel for the respondent would draw the attention of this Court to the finding of the learned Judge at page Nos.32 and 33 of the typed set of papers wherein the First Information Report has been filed holding that the driver of the Transport Corporation bus alone is responsible for the accident, which was not disputed by him by agitating the same before the Tribunal, which awards the compensation for the claimants.

8. The Tribunal has rightly Relied upon the judgment of this Court in **National Insurance Company Limited v. G.Ramesh and another** reported in **2013 (2) TN MAC 583** and awarded a sum of Rs.3,000/- (Rupees Three Thousand only) for 1% disability.

9. After considering the submission, this Court is of the considered view that there is no error in the award passed by the Tribunal. The Tribunal has awarded a reasonable compensation of Rs.1,53,000/-, which does not warrant any interference by this Court. Since the award passed by the Tribunal is fair and reasonable, the same is confirmed. After considering the submission, this Court is of the considered view that there is no error in the award passed by the Tribunal.

10. The appellant Transport Corporation is directed to deposit the entire award amount, less the amount if any already deposited, with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of copy of this judgment. On such deposit being made, the claimant is entitled to withdraw the entire award amount along with proportionate interest and costs.



11. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected C.M.P.(MD) No.2110 of 2016 is also dismissed.

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Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

The Special Subordinate Judge,
Motor Accident Claims Tribunal,
Dindigul.

Copy To:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 64808
+ 1 CC TO Mr.C.K.M.APPAJI, ADVOCATE IN SR No. 64699

CM

TE/JC/SAR-4 : 02/02/2018 : 3P/6C

C.M.A.No.127 of 2016
and C.M.P. (MD)No.2 110 of 2016
12.07.2017