



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.12.2017

CORAM :
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

CMA(MD)No.466 of 2017
and
CMP(MD)No.4984 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
Bye pass Road, (Madurai Limited),
Tirunelveli.

... Appellant/Respondent

Vs.

L.T.Murugan

... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.07.2015 made in MCOP.No.140 of 2014 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Thoothukudi.

For Appellant : Mr.P.Prabhakaran

For Respondents : Mr.S.Siva Thilakar

JUDGMENT

Heard the learned counsel for the parties.

2.The Transport Corporation has filed this appeal questioning the impugned award principally on the ground of negligence as well as the quantum.

3.The claimant Murugan was riding a bicycle on 11.04.2014 at about 11.00 P.M. When he was said to be proceeding on the left side of the Thoothukudi - Meenakshipuram main road from East to West, the bus belonging to the appellant corporation coming in the same direction had hit him. In the resulting accident, the claimant suffered crush injury on his right leg. The right leg was amputated from below the knee. The claimant was working as Parotta Master. Therefore, the Tribunal considering the nature of injuries suffered by him, awarded a sum of Rs.12.00 lakhs as compensation. Aggrieved by the same, the transport corporation has filed this appeal.

4.The learned counsel appearing for the appellant drew my attention through Ex.P2 which is the extract of the Accident Register. A mere look at Ex.P2 would show that the claimant was



under the influence of alcohol. The bus driver was also examined as RW.1. It is also a matter of record that both the F.I.R as well as the final report have been laid against the driver employed by the appellant corporation.

5. It is evident from the record that the deceased was under the influence of alcohol. The accident had occurred at around 11.00 P.M. This Court can therefore come to the conclusion that the claimant had contributed to the accident by riding the bicycle under the influence of alcohol. When someone is under the influence of alcohol, he is not supposed to ride any vehicle. Therefore, I am of the view that 30% contributory negligence can be fastened on the claimant.

6. The Tribunal awarded a sum of Rs.12.00 lakhs as compensation to be paid by the appellant corporation. Since the claimant has been saddled with 30% of negligence, the compensation payable to the claimant will be reduced from Rs.12,00,000/- to Rs.8,40,000/-

7. The award dated 27.07.2015 made in MCOP.No.140 of 2014 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Thoothukudi is modified.

8. The appellant corporation is directed to deposit the sum of Rs.8,40,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the same, by filing proper application before the Tribunal, less the amount already withdrawn by him, if any.

9. This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar(AD-II)

/True copy/

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate /
Motor Accident Claims Tribunal, Thoothukudi.

2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai. (2 COPIES)
+1cc to Mr.P.Prabhakaran, Advocate, SR.No.91003
+1cc to Mr.S.Sivathilakar, Advocate, SR.No. 91040

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05.12.2017

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