



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A. (MD) No.494 of 2017
and
C.M.P (MD) No.5261 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
Cholan House,
Junction Road,
Kumbakonam.

... Appellant

Vs.

Paramasivam

... Respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 06.07.2012 passed in M.C.O.P.No.301 of 2010 on the file of the Motor Accident Claims Tribunal - I Additional District and Sessions Judge (PCR Court), Thanjavur.

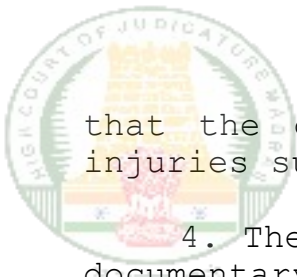
For Appellant : Mr.D.Sivaraman

JUDGMENT

The instant appeal is by the Transport Corporation challenging the award of the Tribunal, in and by which, the Tribunal has awarded a sum of Rs.6,98,200/- (Rupees Six Lakhs Ninety Eight Thousand and Two Hundred only) for the injuries suffered by the respondent/claimant in a motor accident that had occurred on 09.11.2006.

2. According to the respondent/claimant, while he was riding the motorcycle bearing Registration No.TN-49-2001 at Ukkadai road, the bus belonging to the appellant/Transport Corporation bearing Registration No.TN-49-N-0831 driven by its driver in a rash and negligent manner, came from the opposite direction and hit against the motorcycle and because of the accident, the respondent/claimant suffered grievous injuries. The accident also resulted in amputation of his right leg below the knee.

3. The appellant/Transport Corporation resisted the claim contending that the driver of the Transport Corporation bus was not negligent and it was the negligence on the part of the respondent/claimant, which led to the accident. It is also claimed



that the compensation amount claimed was disproportionate to the injuries sustained by him.

4. The Tribunal on consideration of the evidence, both oral and documentary, concluded that in the absence of any evidence on the side of the appellant/Transport Corporation, the question of negligence has to be decided only on the basis of the F.I.R and the evidence of the claimant. Therefore, the Tribunal concluded that it was the driver of the Transport Corporation bus, who was solely responsible for the accident.

5. On the question of quantum, the Tribunal has found that accident resulted in amputation of the right leg of the respondent/claimant below knee. This has resulted in disability about 60%. The Tribunal took the income of the injured at Rs.4,500/- (Rupees Four Thousand and Five Hundred only) per month and adopting the multiplier of 18 and considering the age of the injured claimant, the Tribunal arrived at the compensation for the disability at Rs.5,83,000/- (Rupees Five Lakhs and Eighty Three Thousand only). The Tribunal also awarded a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) for pain and suffering; a sum of Rs.15,000/- (Rupees Fifteen Thousand only) for transportation charges; a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) towards nutrition. No amount was awarded towards medical expenses, since it was not shown that the respondent/claimant had incurred any medical expenses by availing treatment at private hospital. Therefore, on the whole, the Tribunal awarded a sum of Rs.6,98,200/- (Rupees Six Lakhs Ninety Eight Thousand and Two Hundred only) towards compensation.

6. The Tribunal has taken a sum of Rs.4,500/- (Rupees Four Thousand and Five Hundred only) as monthly income taking into account the occupation of the respondent/claimant, namely, Electrician and even towards the disability, the Tribunal has assessed at 60%, considering the fact that the right leg of the respondent/claimant was amputated below knee. Therefore, I find that the award of the Tribunal is fair and reasonable.

7. In the result, this Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, the connected civil miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar



To

1. The I Additional District and Sessions Judge (PCR Court),
(The Motor Accident Claims Tribunal),
Thanjavur.

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

+ 1 CC TO Mr.D.SIVARAMAN, ADVOCATE IN SR No. 60830

RSB

TE/JC/SAR-I : 13/07/2017 : 3P/4C

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