



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Civil Miscellaneous Appeal (MD) No.27 of 2016

and

C.M.P (MD) No.453 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation
Kumbakonam Division II,
Periyamilaguparai,
Trichy.

... Appellant

Vs.

Nallathambi

... Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.183 of 2009, dated 24.04.2015 on the file of the Motor Accidents Claims Tribunal/III Additional Sub Court, Tiruchirappalli.

For Appellant	: Mr.P.Prabhakaran
For Respondent	: Mrs.T.Kokilavani for Mr.C.Padmaraj

JUDGMENT

The Transport Corporation which suffered an award for a sum of Rs.5,29,000/- for the injuries suffered by the claimant as a result of a road accident that occurred on 30.06.2008 is the appellant.

2.The respondent/claimant had sought for compensation of Rs.10 lakhs for the injuries suffered by him. According to him, when he was riding a two wheeler along with his friend one Rengaprabhu on Trichy - Karur Road, the bus belonging to the respondent Corporation which was coming in the opposite direction was driven in a rash and negligent manner and dashed against the two wheeler resulting in the accident. As a result of the accident, the respondent/claimant suffered fracture in the right foot and the right hand and other injuries all over the body. He was admitted in the G.V.N. Hospital at Trichy. As a result of the accident, the major portion of his right foot was removed. It is also claimed that the respondent/claimant was aged 38 years at the time of the accident and he was earning a sum of Rs.6,000/- per month. He was working as Driver.

contende

5.Mr.P.Prabhakaran, learned counsel for the appellant Corporation would contend that the Tribunal fixed the entire liability on the driver of the corporation. He would further submit that the accident had occurred while overtaking a lorry by the injured and therefore, certain amount of contributory negligence should have been attributed to the respondent/claimant.

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7. On the question of quantum, Mr. P. Prabhakaran, learned counsel would contend that the Tribunal adopted the income of Rs. 6000/- which is excessive. He would further submit that there is no evidence to show that the injured claimant was working as a driver.

8. Be that as it may, as a result of the accident, the major portion of the right foot as well as the two fingers in the right hand of the respondent/claimant have been amputated. This had not only resulted in disability but also disfigurement. The injured was aged only 38 years and has a long way to go. Though the Tribunal has fixed a sum of Rs. 6000/- as monthly income, it has fixed functional disability at 40% and has awarded a compensation of Rs. 4,32,000/- under the head of disability. Therefore, I do not find any reason to interfere with the said fixation. As regards the compensation awarded by the Tribunal in the other heads, I find that the said compensation is just and reasonable. Therefore, I do not find any infirmity or irregularity in the award passed by the Tribunal.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, C.M.P (MD) No. 453 of 2016 is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The III Additional Subordinate Judge,
Motor Accidents Claims Tribunal,
III Additional Sub Court, Tiruchirappalli.

+1cc to Mr. P. Prabhakaran, Advocate Sr. No. 60091
+1cc to Mr. C. Padmaraj, Advocate Sr. No. 60064

SMS

VB/JC/SAR2/28.06.2017/3P/4C

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