



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.08.2017
CORAM
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.716 of 2014
and
M.P(MD)No.2 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Periyamilaguparai,
Tiruchy-1.

... Appellant/Respondent

Vs.

M.Tamil Selvi

... Respondent/Petitioner

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.430 of 2010 dated 13.08.2012 on the file of the Motor accident Claims Tribunal/IIIrd Additional Sub Court, Trichirappalli.

For Petitioner : Mr.P.Prabhakaran
For Respondent : Mr.K.P.Narayana Kumar

J U D G M E N T

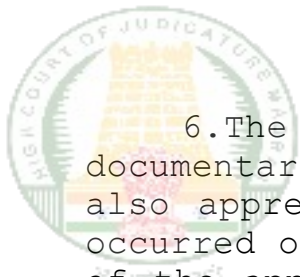
This Civil Miscellaneous Appeal has been filed by the appellant against the award, dated 13.08.2012 passed in M.C.O.P.No.430 of 2010 by the Motor accident Claims Tribunal/IIIrd Additional Sub Court, Trichirappalli.

2. It is a case of injury sustained by the injured/claimant in an accident, which took place on 31.12.2008 at about 6.30 p.m., at Sirukalappur Bus-Stop.

3. It is the case of the injured/claimant before the Tribunal that on the date of accident when she tried to get into the bus bearing registration No.TN 45 N 2105, the bus was driven by its driver in a rash and negligent manner and due to which, the injured fell down on the floor and sustained injuries.

4.The injured/claimant filed an application in M.C.O.P.No.430 of 2010 on the file of the Motor Accident Claims Tribunal(IIIrd Additional Sub Court, Trichirappalli), seeking compensation.

5. Before the Tribunal, the claimant examined two witnesses and marked eight documents as Ex.P1 to Ex.P8. The appellant did not examine any oral or documentary evidence before the Tribunal.



6. The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the appellant/Insurance Company and directed the appellant and to pay a sum of Rs.4,22,795/-, as compensation.

7. Against which, the appellant/Transport Corporation has filed this present appeal on the ground of negligence as well as quantum.

8. The learned counsel appearing for the appellant/Transport Corporation submitted the Tribunal erred in fixing the negligence solely on the driver of the bus, because, the injured/claimant, who was hanging on the entrance lost her control and fell down from the moving bus and caused the accident and therefore, the finding of the Tribunal warrants interference.

9. In respect of quantum, the learned counsel for the appellant/Transport Corporation submitted that the Tribunal erred in adopting multiplier method while awarding compensation in the case of injury and the compensation awarded under the other heads are also on higher side and therefore, the award of the Tribunal warrants interference at the hands of this Court.

10. Per contra, the learned counsel for the respondent submitted that in this case, one toe has been removed and therefore, the Tribunal correctly adopted the multiplier method and awarded compensation and therefore, the same does not warrant interference. In support of his submission, the learned counsel for the respondent relied on a judgment in **Assistant Manager, Metropolitan Transport Corporation Limited vs. T.Narendiran** reported in **2014(1) TN MAC 836**, wherein the learned Judge elaborately discussed the consequences of removal toe and held that amputation of toe results in change of gait and pace due to decreased push off from foot and the person experiences "phantom pain" and cannot have grip and therefore, it is a functional disability affecting the whole body and applied multiplier method and awarded compensation.

11. Heard the learned counsel appearing on both sides and perused the materials available on record.

12. A perusal of the award passed by the Tribunal clearly shows that the Tribunal has discussed in detail and found that the driver of the bus only caused the accident and therefore, there is no infirmity in the finding rendered by the Tribunal and the same is confirmed.



13. In respect of quantum also, in view of the judgment reported in **2014(1) TN MAC 836(cited supra)**, this Court is of the view that the Tribunal rightly applied multiplier method and there is no infirmity in that and the compensation awarded under the other heads are also just and reasonable and the same does not warrant interference at the hands of this Court.

14. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 13.08.2012 passed in M.C.O.P.No.430 of 2010 on the file of the Motor Accident Claims Tribunal, IIIrd Additional Sub-Court, Trichirappalli, is hereby confirmed. The appellant/Transport Corporation is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the claimant is permitted to withdraw the entire award amount with accrued interest and cost without filing any formal application before the Tribunal. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To,

1.The Motor accident Claims Tribunal/
IIIrd Additional Sub Court, Trichirappalli.

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

+1cc to M/S.P.PRABHAKARAN, Advocate SR.No.70515

+1cc to M/S.K.P.NARAYANA KUMAR, Advocate SR.No.70410

pm

MAS/SV-MMS/SAR1:06.09.2017:3P-5C

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