

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.10.2018

CORAM

THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

CMA.No.2048 of 2006

and

M.P.No.1 of 2006

The Managing Director,
Tamilnadu State Transport Corporation,
Villupuram Division.

... Appellant/R3

Versus

1. T.Balu

...R1/Petitioner

2. P.Subbaraj

...RR@ & 3/RR1 & 2

3. Oriental Insurance Co. Ltd.,
Thiruvallur.

... Respondents

(R2 Exparte before the Tribunal)

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and decree dated 26.04.2005 and made in M.A.C.T.O.P. No.282 of 2003 on the file of the Motor Accidents Claims Tribunal, (Sub-Court.) Ponneri.

For Appellant : Mr.P.G.Padmanabhan

For R3 : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred against the Judgment and decree dated 26.04.2005 and made in M.A.C.T.O.P. No.282 of 2003 on the file of the Motor Accidents Claims Tribunal, (Sub-Court.) Ponneri.

2. The brief facts of the case are as follows :-

On 13.04.2003, the petitioner was travelling as passenger in the transport corporation bus bearing Registration No.TN.21.N.0391 and when it was proceeding towards Cheyyar in a normal speed and according to Traffic rules and regulations at about 11.10 am, when they were near Rajakalmbakkam - Singidi Koot Road and at that time a Eaicher Container Van bearing Registration No.TN.01.H.6944 which came in the opposite direction with high speed by overtaking a car and trespassed in

the lane of the respondent's bus without observing Traffic rules and regulations and caused the accident. Due to which the petitioner sustained injuries, hence claimed a sum of Rs.2,00,000/- as compensation.

3.The transport corporation in their counter statement has denied the accident and stated that the accident occurred only on the part of the driver of the van and there was no rashness or negligence on the part of the respondent's bus driver. It is also stated that the claimant shall prove that he was an authorized passenger at the time of the accident. The quantum of compensation claimed under various heads is also stated as highly excessive and baseless.

4.The Tribunal, after analyzing the evidence and documents placed before the same, has given a finding that the negligence is on the part of the driver of both the vehicles and fixed the liability equally on both the vehicles. The Tribunal has also arrived a sum of Rs.1,52,520/- as compensation for the injury, disability and the other expenses sustained by the claimant. Aggrieved against the said judgment, the Transport Corporation has preferred this appeal.

5.In the grounds of appeal, it has been stated that the sum awarded by the Tribunal is not source to the circumstances and principles made in similar cases and it is the contrary to evidence and principles. The income determined by the Tribunal at Rs.2,100/- per month is excessive, without any documentary evidence. The sum arrived by taking the disability at 30% and fixed a sum of Rs.1,52,520/- is also very much excessive by applying multiplier method is not justified. The sum awarded for pain and sufferings, nourishment also on the higher side and the interest awarded at the rate of 9% is also excessive.

6.Heard learned counsel for the appellant and perused the materials available on record.

7.The appellant/Transport Corporation has argued that the injuries sustained by the claimant was very much stated in Ex.P2. It is also brought to the notice of this Court, that the claimant underwent treatment in Kancheepuram Government Hospital and subsequently he was treated in the another hospital. It is argued by the appellant that there is no relevant document placed by the appellant for the treatment taken in Puttur, Andra Pradesh for his leg fracture and hence, the evidence of P.W.2 who has furnished the disability certificate is not the person who treated the injured person. But, it is observed from the Accident Register that the claimant has sustained two fractures in his left leg and it is also very much proved by the certificate issued by the Government Hospital, Exs.2 & 4. P.W.2

has also deposed before the Court that because of the fracture injury and in spite of the effective and continuous treatment the muscles have contradicted and his movement has been very much reduced. While, making assessment he has also assessed the disability at 45%. The Tribunal has taken disability only at 30% which is very much reasonable and the sum arrived by the Tribunal by taking his monthly income at Rs.2,100/-, is also not on the higher side.

8.It is observed that injured person is a car mechanic and he is the self-employed person. Therefore, the disability incurred by him has to be properly considered and the proper method of applying multiplier method is not exaggerated one. Hence, by taking and applying the proper method, the sum arrived by the Tribunal at Rs.1,28,520/- is not on the higher side. Likewise, by taking into consideration, the injuries and fracture sustained by the claimant, the sum awarded at Rs.10,000/- for pain and sufferings, for nourishment at Rs.10,000/-, Transportation at Rs.3,000/- and Rs.1,000/- for damages to clothes are very much reasonable and proper. The total sum arrived at Rs.1,52,520/- is very much reasonable. This Court finds no ground to interfere with the award passed by the Tribunal, hence the same is confirmed.

9.In the result, the civil miscellaneous appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

at/gbi

To

1.The Subordinate Judge सतयमेव जयते
The Motor Accidents Claims Tribunal,
(Subordinate-Court.) Ponneri.

2. The Section Officer,
V.R.Section,
High Court, Madras.

+1 CC to Mr.P.G.Padmanabhan, advocate sr 73802.

CMA.No.2048 of 2006

EV(CO)
SP(08/06/2019)