

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2018

CORAM:

THE HONOURABLE MRS. JUSTICE.R.HEMALATHA

CMA.No.3097 of 2005 and
C.M.P.No.10272 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.
Bye Pass Road, Chettinaickkenpatti Post,
Dindigul 624 305. Appellant/ Respondent

/vs/

S.P.Sivakumar Respondent/Claimant

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 05.10.2004 made in M.C.O.P.No.1402 of 2003 on the file of the Motor Accident Claims Tribunal, Additional District Judge, and Special Judge for E.C.Act Cases, Salem.

For Appellant : No Appearance

For Respondent : No Appearance

J U D G M E N T

The Tamil Nadu State Transport Corporation Limited, Dindigul, who is the respondent in M.C.O.P.No.1402 of 2003 on the file of the Additional District Judge, Motor Accident Claims Tribunal, Salem has filed the present appeal,

2. The brief facts of the case of the claimant in nut shell: On 01.10.2003 at about 2.00 hours, the claimant was travelling in a bus bearing registration No. TN 57 N 0821 belonging to the appellant, as a passenger, on Karur- Dindigul Main Road and while the bus was nearing N.H.Kullampatty Cross Road, the driver of the bus drove the bus rashly and negligently and hit a lorry, which was coming on the opposite direction, as a result of which, the petitioner, who was aged about 35 years on the date of the accident, sustained injuries. According to the claimant, he was an Executive Marketing at Gomadhi

Engineering Service, Erode and was earning a sum of Rs.7,000/- per month. Hence, the claimant had filed a claim petition seeking compensation of Rs.3,00,000/- before the Tribunal in M.C.O.P.No.1402 of 2003.

3. The respondent/appellant filed a counter affidavit denying all the allegations of the claimant.

4. After analysing the entire evidence on record, the Additional District Judge and Special Judge for E.C. Act cases, Motor Accident Claims Tribunal, Salem has awarded a compensation of Rs.1,10,000/- to the claimant together with interest at the rate of 9% p.a.

5. Aggrieved over the award passed by the Additional District Judge, Motor Accident Claims Tribunal, Salem in M.C.O.P.No.1402 of 2003, the Tamil Nadu State Transport Corporation Limited/appellant has filed the present appeal contending that the quantum of compensation awarded by the Tribunal is on the higher side.

6. No appearance for the appellant as well as the respondent in the present appeal.

7. A perusal of the medical records Ex.A2, A3, A6 and A7 show that the claimant had sustained a fracture on his left foot and also lost 5 teeth. Doctor P.Sridhar (Pw2) has issued a partial permanent disability certificate (Ex.A6), certifying that the disability suffered by the claimant is 25%. On the date of accident, the claimant was 35 years old and the trial court, after considering the various aspects, had awarded a compensation of Rs.1,10,000/- together with interest at the rate of 9% p.a., which cannot be said to be on the higher side, especially, when the petitioner has lost his 5 teeth and suffered fracture on his left foot. Therefore, I do not see any reasons to interfere with the findings of the Additional District Judge, Motor Accident Claims Tribunal, Salem and hence, the appeal is liable to be dismissed.

8. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

(ii) The Award and decree passed by the the Additional District, Motor Accident Claims Tribunal, Salem. in M.C.O.P.No.1402 of 2003 dated 05.10.2004 is upheld.

(iii) The appellant is directed to deposit the entire Award amount along with interest to the credit of M.C.O.P.No.1402 of 2003 on the file of the Additional District

Judge and Special Judge for E.C. Act cases, Motor Accident Claims Tribunal, Salem, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the same.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

mst

To

- 1 . The Additional District Judge,
and Special Judge for E.C.Act Cases,
Motor Accident Claims Tribunal,
Salem.
- 2 . The Managing Director,
Tamil Nadu State Transport Corporation Ltd.
Bye Pass Road, Chettinaickkanpatti Post,
Dindigul 624 305.

Copy To :

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

CMA.No.3097 of 2005
C.M.P.No.10272 of 2005
सत्यमेव जयते

AK (CO)
GMY (18/12/2018)

WEB COPY