

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 03.10.2018

CORAM:

THE HONOURABLE Tmt. JUSTICE S. RAMATHILAGAM

C.M.A.No.3230 of 2005

The Managing Director,
Tamil Nadu State Express Transport Corporation,
Division I, Chennai - 2 ... Appellant/Respondent

Versus

A.Rajan alias Andiappan ... Respondent/Petitioner

Prayer : Civil Miscellaneous Appeal filed under Sections 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 06.08.2003 made in M.A.C.T.O.P.No.3242 of 1999 on the file of the Motor Accident Claims Tribunal (V Judge, Court of Small Causes), Chennai.

For Appellant : Mr.M.Krishnamoorthy

For Respondent : Mr.A.A.Venkatesan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 06.08.2003 made in M.A.C.T.O.P.No.3242 of 1999 on the file of the Motor Accident Claims Tribunal (V Judge, Court of Small Causes), Chennai.

2. The facts of the case are as follows :

On 24.12.1998 at about 5.00 a.m., when the claimant was travelling as a passenger in the respondent bus bearing Registration No.TN 01 N 6390, the driver of the said bus applied sudden brake, on seeing a lorry in the opposite direction, due to which the claimant sustained severe injuries. The claimant was admitted in the hospital for treatment and he also suffered pain and suffering, disability and loss of income. The claimant has claimed a sum of Rs.1,00,000/- as compensation.

3. The respondent has filed a counter statement denying the accident and liability.

4. The Tribunal, after analyzing the evidence and documents before it, has given a finding that with regard to the nature of injury, treatment and disability sustained by the claimant and has awarded a sum of Rs.63,500/- as compensation. Aggrieved against the said award, the appellant/Transport Corporation has preferred this appeal.

5. In the grounds of appeal, the appellant has disputed the cause of the accident viz., due to the rash and negligent driving on the part of the driver of the bus, non-joinder of the owner and insurer of the lorry and has stated that the sum awarded by the Tribunal is excessive for the simple injury and also the other aspects relating to the determination of the sum calculated under the loss of income. It is contended that, on the whole, the sum awarded by the Tribunal is excessive.

6. On a perusal of the Judgment of the Tribunal, it is observed that, on the side of the claimant Exs.P1 to P5 were filed. Ex.P1 is an Accident Register. Ex.P2 is discharge summary. The Tribunal has observed that the claimant sustained injury on nose, eye brow, injury in right hand wrist and lost two teeth and taking treatment as outpatient in Villupuram General Hospital, for which, the receipts were produced by the claimant. The Tribunal has also observed that further treatment was taken by the claimant at the Government Stanley Hospital and discharge summary was also filed by him. Based on the injury, the Doctor has given a disability certificate-Ex.P5. The Tribunal, by considering the age of the claimant as 65 years and verifying the income by way of Ex.P3, the salary certificate, has awarded the loss of income at Rs.48,000/- and awarded a sum of Rs. 8,000/- for loss of income during the treatment period. The Tribunal has also awarded a sum of Rs.1,000/- for transport expenses, Rs.1,000/- for nourishment, Rs.500/- for damaged to clothes and Rs.5,000 towards pain and suffering. On the whole, the Tribunal has awarded the sum of Rs.63,500/-. By taking into consideration, the nature of injury and treatment underwent by the claimant, the sum awarded by the Tribunal under all the heads are found quite reasonable.

7. In the result, this Court is of the view that the compensation awarded by the Tribunal, by considering the nature of injury, treatment, medical expenses incurred by the claimant and loss of income, are quite reasonable. This Court is unable to see any reason to interfere with the findings of the Tribunal in this appeal regarding the claim of the claimant. Further, it is represented before this Court that the Transport Corporation/appellant has deposited the entire amount awarded by

the Tribunal and the same was also withdrawn by the claimant/respondent.

8. In view of the above, this Civil Miscellaneous Appeal is dismissed. No cost.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

lpp

To

1. The Motor Accident Claims Tribunal
(V Judge, Court of Small Causes),
Chennai.

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

+1cc to Mr.A.A.Venkatesan, Advocate, S.R.No. 68035

+1cc to Mr.M.Krishnamoorthy, Advocate, S.R.No. 68582

C.M.A. No.3230 of 2005

RJ(CO)
GN(16/11/2018)

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