

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2018

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1364 of 2010

and

M.P.No.1 of 2010

The Managing Director,
State Express Transport Corporation,
Villupuram,
Division-III. Appellant/Respondent

..Vs..

G.SelsaRespondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 15.07.2009 and made in M.C.O.P.No.2560 of 2006, on the file of Motor Vehicles Accidents Claims Tribunal, IInd Court of Small Causes, Chennai.

For Appellant : Mr.V.Ramesh

For Respondent : Mrs.M.Malar

J U D G M E N T

The instant appeal has been filed by the Transport Corporation challenging the quantum of compensation awarded by the Tribunal under the impugned Award dated 15.07.2009 passed by the Motor Accident Claims Tribunal, IInd Small Causes Court, Chennai in M.C.O.P.No.2560 of 2006.

The brief facts leading to the filing of the instant appeal are as follows:-

2. The respondent sustained injuries as a result of an accident that took place on 10.02.2005 caused by a bus bearing registration No. TN 21 N 0377 owned by the Appellant Transport Corporation. The respondent preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No. 2560 of 2006 seeking a compensation of Rs.5,00,000/-, which was restricted to Rs.2,00,000/-. The Motor Accident Claims Tribunal by its Award dated 15.07.2009 in M.C.O.P.No.2560 of 2006 directed the appellant to pay the respondent a sum of Rs.75,850/- together

with interest at the rate of 9.5% per annum from the date of claim till the date of realisation.

3. Aggrieved by the Award dated 15.07.2009 passed by the Motor Accident Claims Tribunal in MCOP. No.2560 of 2006, the instant appeal has been filed by the Appellant Transport Corporation.

4. Heard Mr.V.Ramesh, learned counsel for the Appellant and Mrs.M.Malar, learned counsel for the respondent.

5. According to the learned counsel for the Appellant, the Tribunal has erroneously fixed the negligence on the part of the driver of the bus owned by the Appellant Transport Corporation. The learned counsel for the Appellant would further contend that the Tribunal has erroneously awarded a compensation of Rs.75,850/- to the respondent which is excessive. According to the learned counsel for the Appellant, the interest at the rate of 9.5% per annum awarded by the Tribunal is also excessive.

6. Per contra, the learned counsel for the respondent would submit that, even though the respondent had made a claim for a sum of Rs.2,00,000/- the Tribunal has awarded only a sum of Rs.75,850/-. The learned counsel for the respondent would further contend that even though the Doctor has assessed the disability of the respondent at 30%, the Tribunal has assessed the disability of the respondent at 15%, without any basis. Therefore, according to the learned counsel for the respondent, the compensation awarded under the impugned award is a just compensation and not an excessive compensation as alleged by the appellant.

7. This Court has examined the impugned Award. The respondent has filed Ex.P6 Disability certificate which discloses that he has suffered 30% disability, as a result of the injuries caused by the accident. No contra evidence has been produced by the appellant to disprove the percentage of disability suffered by the respondent. Without any basis, the Tribunal has assessed the disability of the respondent at 15% and awarded a sum of Rs.22,500/- as a compensation for disability.

8. The Tribunal has also awarded Rs.12,000/- towards loss of earning, Rs.2,000/- towards transportation cost, Rs.2,000/- towards extra nourishment expenses, Rs.2,000/- towards damages to cycle, clothing and articles, Rs.350/- towards reimbursement of Medical Bills and Rs.1000/- towards other expenses.

9. In the considered view of this Court, the compensation awarded under various heads by the Tribunal to the respondent is

a just compensation. Apart from sustaining other injuries, the respondent has also suffered head injury. Having suffered head injury, there is a possibility that the respondent would have suffered loss of expectation of life.

10. Considering all these factors, the Tribunal has awarded Rs.10,000/- towards loss of amenities and another sum of Rs.10,000/- towards loss of expectation of life. Considering the nature of injuries sustained by the respondent, the Tribunal has also awarded Rs.14,000/- towards pain and suffering. Having suffered 30% disability as per the disability certificate which was reduced to 15% by the Tribunal on its own, without any basis, the overall compensation awarded to the respondent under the impugned award is a just compensation.

11. In the result, there is no merit in the instant appeal and the appeal is dismissed without costs. Consequently, connected miscellaneous petition is closed.

12. The Appellant is directed to deposit the amount awarded by the Tribunal together with interest, after deducting the amount that has been already deposited to the credit of MCOP.No. 2560 of 2006, on the file of Motor Accident Claims Tribunal, IInd Court of Small Causes, Chennai, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the respondent is permitted to withdraw the amount together with accrued interest lying to the credit of MCOP.No. 2560 of 2006, on the file of Motor Vehicles Accidents Claims Tribunal, IInd Court of Small Causes, Chennai by filing an appropriate application.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mm/nl
To

1. The Motor Accident Claims Tribunal,
II Court of Small Causes, Chennai.
2. The Record Clerk,
VR Section, High Court, Chennai. (2 Copies)

+1cc to Mrs.M.Malar, Advocate, S.R.No.66324

C.M.A.No.1364 of 2010 &
M.P.No.1 of 2010

SAI(CO)
CS/26/10/2018