



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.587 of 2008
and M.P.No.1 of 2008

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The Managing Director,
Pandiyam Roadways Corporation Ltd.,
MaduraiAppellant/ 2nd Respondent
Vs

1. Subramani1st Respondent Petitioner
2. Mathiazhagan(Driver Given upRespondents/1st
Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and award made in M.C.O.P.No.436 of 1993 dated 02.04.2004 on the file of Motor Accident Claims Tribunal (Subordinate Judge), Tharapuram.

For Appellant : Mr.D.Venkatachalam
for M/s. Rajnish Pathiyel
For Respondent-1 : Not ready in notice.
For Respondent-2 : Given up

JUDGMENT

The instant appeal has been filed by the Transport Corporation challenging the award dated 02.04.2004 passed by the Motor Accident Claims Tribunal (Subordinate Judge, Dharapuram) in M.C.O.P.No.436 of 1993.

2. The brief facts leading to the filing of the instant appeal are as follows;

i) The first respondent sustained injuries on 07.04.1993 as a result of an accident caused by a bus bearing registration No.TN 59 N 0524 owned by the appellant Transport-Corporation. The first respondent preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.436 of 1993 seeking a compensation of Rs.50,000/- (Rupees fifty thousand only).



(ii) The Motor Accident Claims Tribunal, by its Award dated 02.04.2004 in M.C.O.P.No.436 of 1993, directed the appellant Transport-Corporation to pay the first respondent, a sum of Rs.9,500/- (Rupees nine thousand and five hundred only) together with interest at the rate of 9% per annum from the date of claim till the date of realisation.

(iii) Aggrieved by the award dated 02.04.2004 passed in M.C.O.P.No.436 of 1993, the instant appeal has been filed by the Transport-Corporation.

3. Heard Mr.D.Venkatachalam, learned counsel for the appellant-Transport Corporation.

4. Notice is yet to be served on the respondents in this appeal. Since the appeal pertains to the year 2008, and this Court is going to confirm the Award, there is no necessity to serve the notice on the respondents in this appeal.

5. According to the learned counsel for the appellant, in a connected matter involving the same accident in M.C.O.P.No.430 of 1993, the Tribunal had fixed the contributory negligence both on the claimant as well as the Transport Corporation. Further, he would contend that the Tribunal, under the impugned award, without any basis, has awarded a sum of Rs.9,500/- as compensation to the first respondent. This Court has examined the impugned award. As seen from the award, the award passed by the Tribunal in a connected matter involving the same accident in M.C.O.P.No.430 of 1993 was not marked as an exhibit before the Tribunal. No evidence was let in by the appellant-Transport Corporation to prove that there was contributory negligence on the part of the first respondent/claimant in the accident. The injury sustained by the first respondent has also not been disputed by the appellant before the Tribunal. As per the claim petition, the first respondent has claimed that he has sustained grievous injury. No contra evidence has been produced by the appellant-Transport Corporation to disprove the same. The Tribunal has also given a clear finding that only due to rash and negligent driving by the driver of the bus, the accident happened. Considering all these factors, the Tribunal has awarded the compensation of Rs.9,500/- (Rupees nine thousand and five hundred only) to the first respondent.



6. In the considered view of this Court, there is no infirmity in the award passed by the Tribunal.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

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8. The appellant-Transport Corporation is directed to deposit the entire award amount to the credit of M.C.O.P.No.436 of 1993 along with interest awarded by the Tribunal, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, being made, the first respondent is permitted to withdraw the same on filing an appropriate application. Consequently, the connected MP.No.1 of 2008 is closed.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

srn

To

1.The Subordinate Judge,
Motor Accident Claims Tribunal
Dharapuram.

2.The Section officer ,
VR Section,
High Court, Madras.

+1cc to Mr.D.Venkatachalam , Advocate SR.No. 67114

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ASK(26/12/2018)