

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.M.A.No.1947 of 2018

and

CMP.No.15010 of 2018

Tamil Nadu State Transport Corporation Limited,
Railway Station Road,
Kumbakonam Town & Taluk,
Thanjavur District.

... Appellant/Respondent

Vs

A.Abraham

... Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 17.07.2017 passed in M.C.O.P.No.18 of 2016 by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Nagapattinam.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

Being aggrieved by the award of compensation of Rs.58,500/- for the injury sustained by the respondent in the road traffic accident, the Tamil Nadu State Transport Corporation has filed this appeal.

2. Brief facts which are necessary for disposal of the appeal are as follows:

On 29.12.2012 at 3.30 P.M., the respondent, his wife Megalarani, his elder brother Selvaraj and his wife Selin Mary were travelling in a Tata Indica Manza car bearing registration No.TN-51 H 7197 from Velanganni and when car was proceeding on Tanjore - Trichy road and at Vallam pirivu road, a bus bearing registration No.TN-68 N 0157 coming from Trichy to Thanjavur, driven by its driver in a rash and negligent manner dashed against the car. Due to the impact, persons travelled in the car sustained grievous injuries and the brother of the respondent died on the way to the hospital. In the accident, the petitioner sustained injuries on his hand and leg and also all over the body. Immediately after the accident, the respondent was admitted in Vinodhagan Memorial Hospital, Thanjavur. Regarding the accident, a criminal case in Crime No.513 of 2012 under Sections 279, 338 and 304A IPC was registered by Vallam Police Station. Stating that the accident

was due to the rash and negligent driving of the driver of the bus, the respondent filed the claim petition claiming compensation of Rs.3,00,000/- for the injury sustained by him.

3. Opposing the claim, the appellant - Transport Corporation filed counter stating that the driver of the bus driven the vehicle very carefully and due to the negligence of the driver of the Tata Indica car the accident occurred and therefore, the appellant is not liable to pay the compensation. The appellant also denied the age, occupation and income of the injured and stated that the claim made by the respondent is highly exorbitant.

4. Before the Tribunal, the respondent examined himself as P.W.1 and Exs.P1 to P12 were marked. On the side of the appellant, the driver of the bus was examined as R.W.1 and no document was marked.

5. Rejecting the defence plea of the appellant, the Tribunal held that the accident was due to rash and negligent driving of the bus driver and held that the appellant Transport Corporation is liable to pay the compensation to the respondent. Observing that in the accident the respondent sustained only simple injury, the Tribunal estimated Rs.30,000/- towards pain and suffering. Based on Exs.P4 and P9-medical bills, the Tribunal awarded Rs.28,500/- towards medical expenses and transport charges and thus, awarded total compensation of Rs.58,500/-.

6. Challenging the impugned award, the learned counsel for the appellant Transport Corporation submitted that the Tribunal failed to note that the respondent had sustained only simple injury and for the simply injury, the Tribunal ought not to have awarded a sum of Rs.58,500/-. He would submit that since it is a case of simple injury, the Tribunal ought not to have awarded Rs.30,000/- towards pain and suffering and prayed for setting aside the award.

7.I heard Mr.D.Venkatachalam, learned counsel for the appellant and perused the entire records.

8. It is to be noted that the appellant Transport Corporation has not questioned the negligence fastened on the driver of the bus. On the other hand, the appellant is challenging only the quantum of compensation awarded by the Tribunal. Therefore, it is not necessary to narrate the entire facts such as, as to how the accident had occurred and who is responsible for the accident and who is liable to pay compensation. It is for the reasons that the Tribunal has recorded findings on these facts in favour of the respondent. Secondly, as stated supra, the above aspects are not under serious challenge.

9. In so far as the quantum, the Tribunal has estimated Rs.30,000/- for pain and suffering and transport and Rs.28,500/- for medical expenses. The respondent had produced Ex.P2-

discharge summary issued by Vinodhagan Memorial Hospital, Tanjore to show that he was admitted in the said hospital for the injury sustained by him in the accident. On a perusal of Ex.P2-discharge summary, it is seen that the respondent had sustained linear fracture in right temporal bone and laceration and abrasion. The evidence of P.W.1 also corroborates Ex.P2-discharge summary.

10. Finding that the injury sustained by the respondent are simple in nature, the Tribunal estimated Rs.30,000/- for pain and suffering and transport, which in my opinion is reasonable. As far as medical expenses incurred by the respondent is concerned, the respondent had produced Exs.P4 and P9 and the Tribunal has awarded a sum of Rs.28,500/- under the medical expenses and transport charges. To disprove the evidentiary value of Exs.P4 and P9, the respondent has not produced any material. In the absence of any contra evidence, the Tribunal was right in taking Exs.P4 and P9 and awarded Rs.28,500/- towards medical expenses and transport charges. This Court finds that the total compensation of Rs.58,500/- awarded by the Tribunal is just and reasonable and the same has to be confirmed. No valid grounds have been made out to interfere with the award of the Tribunal and the appeal is liable to be dismissed.

11. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

vs

To

The Motor Accident Claims Tribunal,
Chief Judicial Magistrate,
Nagapattinam.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No. 60128

C.M.A.No.1947 of 2018 and
CMP.No.15010 of 2018

VBA (CO)
GN(07/01/2019)