

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.BASKARAN

C.M.A.No.41 of 2018

and

M.P.Nos.462 of 2018

State Transport Corporation (VPM) Ltd.,
Rep.by its Managing Director,
Villupuram. .. Appellant/Respondent

Versus

T.Chermaraj .. Respondent/Petitioner

Civil Miscellaneous Appeal filed against the order and
decree dated 11.04.2017 made in M.C.O.P.No.5105 of 2014 on the
file of Motor Accident Claims Tribunal, (II Small Causes Court),
Chennai.

For appellant : Mr.K.J.Sivakumar

J U D G M E N T

The appellant/State Transport Corporation has filed this
appeal against the judgment and decree dated 11.04.2017 made in
M.C.O.P.No.5105 of 2014 on the file of Motor Accident Claims
Tribunal, in the II Small Causes Court, Chennai.

2. For the sake of convenience, the parties will be
referred to in this judgment as arrayed before the Tribunal.

3. The petitioner states that on 12.12.2013 at about 13.00
hours, while he was riding a motor cycle bearing Regn.No.TN-21-
AB-1183 on G.S.T. Road near Pozhaiyanur Koot road junction
towards Villupuram, the bus bearing Regn.No.TN-32-N-3753
belonging to the respondent's Transport corporation driven by
its driver in a rash and negligent manner hit the motorcycle
driven by the petitioner. In the impact, the petitioner
suffered grievous injuries. According to the petitioner, the
accident occurred only due to the negligence of the driver of
the bus belonging to respondent's corporation. Hence the
petitioner/claimant come forward with M.C.O.P.5105 of 2014 supra
for payment of Rs.7,00,000/- as compensation.

4. On the other hand, contesting the claim of the petitioner, the respondents corporation filed counter stating that bus was driven by the driver at normal speed, following the traffic rules. On 12.12.2013, when the bus was proceeding from Chennai to Villupuram, due to heavy rainfall, the bus was going at slow speed only. At that time, a lorry came from the opposite side at fast speed in a rash and negligent manner and to avoid hitting the lorry, the driver of the bus applied sudden brake and at that time the motorcycle hit the bus and suffered injuries. Thus, the respondent /corporation contends that petitioner was negligent in riding the two wheeler and he only caused to the accident. Therefore, the respondent's corporation prayed for dismissal of the claim petition

5. Before the Tribunal, to substantiate the claim, the petitioner/claimant examined himself as P.W.1 and two other witness were examined as P.W.2 and P.W.3. The petitioner also produced Ex.P.1 to Ex.P.10 documents. On the respondent's side, the driver of the bus which was involved in the accident deposed as R.W.1 but no document was produced.

6. The eyewitness of occurrence P.W.3 categorically stated that respondent's corporation bus driven at high speed dashed against the two wheeler from behind which was proceeding on the extreme left side of the G.S.T.Road. Ex.P.1 and Ex.P.2 discloses the nature of injuries sustained by the respondent's. The driver of the respondents corporation who was examined as R.W.1 stated that he is not responsible for the accident. However, considering the factum of oral evidence on both sides and Exs.P.1 and P.2 Discharge summaries, this court is inclined to accept the evidence of P.W.3 as well as P.W.1 to hold that the accident took place only due to rash and negligent driving of the driver of the bus belonging to respondent's corporation.

7. The Trial Court after considering the evidence of P.W.2, Doctor, concluded that disability suffered by the petitioner is 45% as evidenced by Ex.P.9 disability certificate. The Tribunal also took into consideration the loss of income during the period of treatment and on the basis of Ex.P3 and P4 Scan Reports, Ex.P.1 and Ex.P.2 Discharge Summaries and Ex.P.9 Disability Certificate awarded sum of Rs.1,20,000/- towards loss of income and disability compensation and Rs.13,000/- for loss of earning during treatment period. Considering the available materials and evidence on records, the Tribunal awarded a compensation of Rs.3,11,000/- under various heads as follows:

Sl. No.	Head	Amount granted by the Tribunal
1	Disability	Rs. 1,20,000/-
2	Medical Expenses	Rs. 71,905/-
3	Pain and Suffering and Trauma	Rs. 50,000/-
4	Transportation, Nourish food and Miscellaneous Expenses	Rs. 25,000/-
5	Loss of earning during the treatment period	Rs. 13,000/-
6	Attender Charges	Rs. 6,000/-
7	Loss of Amenities	Rs. 25,000/-
	Total	Rs. 3,10,905/-
	Total amount awarded by Tribunal	Rs. 3,10,905/-
	The same is rounded to Rs.3,11,000/-	

8. Aggrieved over the same, the respondent's corporation has preferred this appeal contending that no valid document was filed to prove the age and income of the petitioner. Further, the Tribunal award of sum of Rs.1,20,000/- for disability sustained by the petitioner is very high. The Tribunal failed to consider that failure to implead the owner of the motorcycle would vitiate the claim made by the petitioner.

9. Taking note of the above said grounds raised by the respondent/ transport corporation in this appeal, this Court is of the view that this appeal can be disposed of at the time of admission itself.

10. The main ground on which the appeal is filed by the respondent's Corporation is that the petitioner alone is responsible for the accident. However, on perusal of the material records, it is evident that no valid evidence was made available by the respondent's corporation to entertain the appeal. On perusal of the award passed by the Tribunal, it is evident that disability was calculated by the Tribunal on the basis of deposition of P.W.2 Doctor and Ex.P.9 Disability Certificate issued by him. The quantum of compensation has been arrived at by the Tribunal on the basis of material evidence made available. The Tribunal has taken into consideration the period of treatment of the respondent, nature of injury suffered by him and other circumstances associated with the accident,

including the subsequent treatment undertaken by the petitioner. In such circumstances, this court is of the view that no ground is made out by the appellant/transport corporation to entertain the appeal and the same deserves to be dismissed at the admission stage itself.

12. In the result, the appeal stands dismissed. Consequently, connected miscellaneous petition is also closed. No costs. The appellant / transport Corporation is directed to deposit the award amount, (as confirmed in this appeal), less the amount already deposited, with interest @ 7.5% from the date of petition till the date of deposit to the credit of MCOP No.5105 of 2014 within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the petitioner/claimant is permitted to withdraw the entire compensation amount including accrued interest.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vv

To

1. The Motor Accidents Claims Tribunal,
II Small Causes Court, Chennai
2. The Section Officer,
V.R.Section, High Court, Madras.

svi(co)
CS/02/03/18

C.M.A.No.41 of 2018

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