

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	08.12.2017
Pronounced on	18.04.2018

C O R A M

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.1480 of 2008

The Managing Director,
Tamilnadu State Transport
Corporation Ltd., Division II,
Chennimalai Road,
Erode

....Appellant/Respondent

Arumugam

...Respondent/Claimant

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Accident Claims Tribunal and Additional District Judge, Fast Track Court IV at Tiruppur dated 10.12.2007 in M.C.O.P.No.928 of 2003.

For Appellant : Mr.S.V.Vasanthakumar
For Respondent : No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the appellant herein who is the Managing Director of Tamilnadu State Transport Corporation Limited against the award made in MCOP.No.928 of 2003 on the file of the Motor Vehicles Accident Claims Tribunal and Additional District Judge, Fast Track Court at Tiruppur.

2. The learned counsel for appellant present. In spite of notice, the respondent was not present.

3. The brief facts of the claim petition is that on 19.4.2003 at about 11.30 hours, when the claimant was proceeding in his bicycle from west to east in the Tiruppur to Kangeyam road, in front of Velan Hotel, Tiruppur, at that time, a bus bearing Regn.No.TN-33-N-0747 which was driven by the respondent's Corporation/appellant herein from east to west in a rash and negligent manner and hit against the cyclist, due to which, the claimant herein sustained severe injuries all over the body. He was given treatment and also spent huge amount towards medical treatment. Due to which, he is claiming a compensation for a sum of Rs.5,00,000/-.

4. The Tribunal after assessing the evidence and the documents placed before it, fixed the liability on the driver of the first respondent and also assessed the disability as per Ex.P.4 Disability Certificate, 26.4% disability was fixed by Ortho surgeon P.W.2 Dr.Senthilkumar. Considering the nature of injury and the disability sustained by the claimant, the Tribunal has awarded a sum of Rs.88,000/- as total compensation.

4. Aggrieved against the award, the Managing Director, Tamil Nadu State Transport Corporation, Erode has preferred the present appeal, stating that it is excessive and further the Tribunal has not considered the negligence on the part of the claimant/appellant herein and prays to setting aside the award.

5. On perusal of records, it is observed that as per Ex.A.1 F.I.R, the case has been registered against the driver of the bus and the Tribunal has perused the same and fixed a liability on the driver of the bus who driven the bus in a rash and negligent manner and caused the accident. Then, coming to the point of quantum of compensation, it is observed that Ex.A.2 Out-patient sheet which reflects that the claimant had sustained fracture over the second and middle fingers of right hand and they are grievous in nature. He was admitted in the Government Hospital, Tiruppur as in patient from 18.04.2003 to 24.04.2003. On the side of the claimant P.W.2 Dr.Senthilkumar, Ortho surgeon who issued Ex.A.4, disability certificate has deposed before the Court that he has assessed the disability at 26.4%. It is also observed that claimant's movements in the middle and index finger joints are restricted.

6. The tribunal has also noted the age of the petitioner as 40 years at the time of accident and took his income as Rs.3000/- per month considering the normal minimum wage earned by any labourer. The tribunal has also observed that the petitioner was employed as a load man in Amman Rice Store, Tiruppur for which, PW3-Duraisamy was examined on his side to prove his avocation. It is also observed that the tribunal by adopting appropriate multiplier of 15 for the said age, calculated 15% of loss of earning power and granted compensation, a sum of Rs.81,000/- under the head of loss of earning power. It is also awarded Rs.5,000/- for pain and suffering, Rs.1000/- for Extra Nourishment and Rs.1,000/- for loss of income during treatment period and in total, it awarded a sum of Rs.88,000/- as total compensation together with interest at the rate of 7.5% per annum from the date of petition till the date of payment. The compensation awarded by the tribunal under various heads are tabulated as below;

Loss of earning power	Rs.81,000
Pain and sufferings	Rs.5,000/-
Extra nourishment	Rs.1000/-

Loss of earning power	Rs.81,000
Loss of income during treatment period	Rs.1,000/-
Total	Rs.88,000/-

7. This court is of the view that the tribunal considering all the aspects with regard to the nature of injury, age of the claimant, his occupation, his minimum income and the probable expenses that shall be incurred by the claimant, in a proper perspective, has rightly awarded a sum of Rs.88,000/- as total compensation, which is quite and reasonable one. Therefore, the award passed by the tribunal does not require any interference of this Court and the same is hereby confirmed.

8. In the result, this Civil Miscellaneous Appeal stands dismissed and the award of the Tribunal in M.C.O.P.No.928 of 2003 dated 10.12.2007 is confirmed. It is represented that a sum of Rs.25,000/- has already been deposited. The Transport Corporation is directed to deposit the amount awarded by the tribunal, less the amount already deposited within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant is entitled to withdraw the same together with accrued interest. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

vv

To

1. The Motor Accident Claims Tribunal and
Additional District Judge,
Fast Track Court IV, Tiruppur.

Copy To
The Record Keeper,
V.R.Section, High Court,
Madras (2 Copies)

+1cc to Mr.S.V.Vasanth Kumar, Advocate SR.No.29367

C.M.A.No.1480 of 2008

SSI (CO)
GN(09/08/2018)