

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1879 of 2010
and M.P.No.1 of 2010

The Managing Director,
Chennai Metropolitan Transport Corporation Ltd.,
Pallavan Salai,
Chennai - 600 002.

...Appellant

Vs

A.Madhan

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to set aside the award made in MCOP No.2009 of 2007 dated 18.09.2009 on the file of the Motor Accidents Claims Tribunal, and in the IV Court of Small Causes Chennai.

For Appellant : Mr.S.Sivakumar

For Respondent : No Appearance

JUDGMENT

The instant appeal has been filed challenging the Award dated 18.09.2009, passed by the Motor Accidents Claims Tribunal, (Small Causes Court No.IV), Chennai in M.C.O.P.No.2009 of 2007.

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

(i)The respondent sustained injuries on 06.04.2007 as a result of an accident caused by a bus bearing Registration No.TN-02-N-0087 owned by the Appellant Transport Corporation. The respondent preferred a claim before the Motor Accidents Claims Tribunal in M.C.O.P.No.2009 of 2007, seeking compensation of Rs.6,00,000/- on account of the injuries sustained as a result of the accident caused by the bus owned by the Appellant Transport Corporation.

(ii) The Motor Accidents Claims Tribunal by its Award dated 18.09.2009 in M.C.O.P.No.2009 of 2007, directed the Appellant Transport Corporation to pay the respondent a sum of Rs.1,17,750/- together with interest at 9.5% per annum from the date of the claim till the date of realisation.

3. Aggrieved by the Award dated 18.09.2009, in M.C.O.P.No.2009 of 2007, the instant appeal has been filed by the Transport Corporation.

4. Heard, Mr.S.Sivakumar, learned Counsel for the Appellant. Till date, notice has not been served on the respondent. Since this Court is going to confirm the Award, there is no necessity to serve the notice on the respondent.

5. According to the learned Counsel for the Appellant, the primary ground for challenge in the instant appeal is that the owner and insurer of the motor cycle bearing Registration No.TN 02 F 6400 were not impleaded in the claim petition. Further, the learned Counsel for the Appellant would contend that the quantum of compensation awarded to the respondent is excessive.

6. This Court after having considered the materials available on record and after examining the impugned Award and after hearing the submission of the learned Counsel for the Appellant observes the following:

a) There is a clear finding given by the Tribunal under the impugned Award that the driver of the bus owned by the Appellant Transport Corporation was at fault which resulted in the accident causing injuries to the respondent.

b) The respondent was driving the motor cycle and was aged 22 years, and was a two wheeler mechanic at the time of the accident. He has claimed that he was earning a monthly income between Rs.6500/- and Rs.7500/-.

c) No contra evidence has been produced by the Appellant Transport Corporation to disprove the monthly income of the respondent at the time of the accident. The Tribunal under the impugned Award has assessed the monthly income of the respondent at the time of the accident at Rs.4500/-.

7. The compensation was awarded to the respondent under the heads loss of earnings, transportation expenses, extra nourishment charges, damage to clothing, medical expenses, pain and sufferings and towards permanent disability. Considering the nature of injuries sustained by the respondent, the compensation awarded by the Tribunal is a reasonable and just compensation.

8. The respondent has filed six documents which includes medical bills, discharge summary, O.P. chits, medical

prescriptions, disability certificate and on the side of the respondent two witnesses were examined before the Tribunal including the respondent himself as well as the Doctor.

9. In the light of the above observations, this Court is of the considered view, that the compensation awarded to the respondent is a just compensation and there is no necessity for this Court to interfere with the said Award.

10. Accordingly, there is no merit in the instant appeal and the Civil Miscellaneous Appeal is dismissed. Consequently, the connected miscellaneous petition is closed. No Costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal,
(Small Causes Court No.IV), Chennai.

+1cc to Mr.S.Sivakumar, Advocate sr.no.61868

C.M.A.No.1879 of 2010
and M.P.No.1 of 2010

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