

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3304 of 2008

The Managing Director,
Tamilnadu Transport Corporation Ltd.,
Division-I, 12 Ramakrishna Road,
Salem-7. ...Appellant

Vs

Surya ...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the Hon'ble Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court-II, Salem in M.C.O.P.No.2008 of 2004 dated 01.02.2008.

For Appellant : Mr.V.Ramesh

For Respondent : Mr.K.Kuppusamy

JUDGMENT

The instant appeal has been filed challenging the Award dated 01.02.2008 passed by the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court-II, Salem in M.C.O.P.No.2008 of 2004.

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

(i) The respondent was travelling as a passenger in a Tata Indica Car bearing Registration No.TN-01-V-3726, along with his family from Chennai to Coimbatore, while so, he sustained injuries on 30.09.2004, as a result of an accident caused by a bus bearing Registration No.TN-27/N.1000 owned by the Appellant Transport Corporation.

(ii) The respondent preferred a claim petition before the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court-II, Salem in M.C.O.P.No.2008 of 2004, seeking compensation, as a result of the accident caused by a bus owned by the Appellant Transport Corporation.

(iii) The respondent in this appeal made a claim of Rs.3,00,000/- before the Motor Accidents Claims Tribunal. The Motor Accidents Claims Tribunal by its judgment dated

01.02.2008 in M.C.O.P.No.2008 of 2004, directed the Appellant to pay a sum of Rs.50,000/- to the respondent together with interest at 7.5%, per annum from the date of claim till the date of realisation towards the compensation for the respondent due to the rash and negligent driving caused by a bus owned by the Appellant Transport Corporation.

3. Aggrieved by the Award dated, 01.02.2008 passed by the Motor Accident Claims Tribunal, the instant appeal has been filed by the Appellant Transport Corporation.

4. Heard, Mr.V.Ramesh, learned Counsel for the Appellant and Mr.K.Kuppusamy, learned Counsel for the respondent.

5. According to the learned Counsel for the Appellant, the primary ground for challenge is that the Tribunal erred in accepting 30% disability for an injury sustained in lower jaw and has erroneously awarded a sum of Rs.30,000/- for 30% disability and awarded sum of Rs.5,000/- each towards pain and suffering, nourishment, medical expenses and transport.

6. Per Contra, the learned Counsel for the respondent submits that the respondent has established his disability by filing a Disability Certificate which is marked as Ex.P13 before the Tribunal. According to him, no contra evidence was produced by the Appellant to disprove the percentage of disability sustained by the respondent as a result of the accident. According to him, the compensation awarded by the Tribunal is a just compensation.

7. This Court after having considered the materials available on record and after examining the impugned award and after hearing the submissions of the respective Counsels observes the following:

(a) The injury sustained by the respondent as a result of the accident caused by a bus owned by the Appellant is not disputed by the Appellant before the Tribunal.

(b) The respondent has established that he suffered 30% permanent disability as a result of the accident as seen from Ex.P13, since no contra evidence has been produced by the Appellant before the Tribunal to disprove the percentage of disability.

8. The Tribunal has also awarded Rs.1000/- per percentage of disability and considering 30% disability, the Tribunal has rightly awarded a sum of Rs.30,000/-. In so far as the compensation awarded under the other heads by the Tribunal are concerned, they are also reasonable and in accordance with the settled principles of law.

9. There is no merit in the instant appeal. Accordingly, the appeal is dismissed. No costs.

10.The Appellant Transport Corporation is directed to deposit the Award amount along with interest at the rate of 7.5% per annum awarded by the tribunal from the date of petition till the date of realisation to the credit of M.C.O.P.No.2008 of 2004, if not already deposited. On such deposit being made, the respondent is permitted to withdraw the same on making appropriate application.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

arb/msr

To

1.Motor Accidents Claims Tribunal,
Additional District Judge,
Fast Track Court-II,
Salem.

2.The Record Clerk,
VR Section,
High Court, Madras.

+1cc to M/s.K.Kuppusamy, Advocate SR.NO.59558

NRL(CO)

sm:9.10.2018

C.M.A.No.3304 of 2008

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