

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.811 of 2010

&

M.P.No.1 of 2010

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division-3,
Kanchipuram

..Appellant/Respondent

..Vs..

Mugundan

..Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 23.01.2009 and made in MCOP. No.107 of 2006 on the file of the Motor Vehicles Accidents Claims Tribunal No.IV, Fast Track Court, Ponneri and praying to set aside the same.

For Appellant : Mr.V.Ramesh

For Respondent : No appearance

J U D G M E N T

The instant appeal has been filed by the Transport Corporation challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, No.IV Fast Track Court, Ponneri in MCOP. No.107 of 2006 in its award dated 23.01.2009.

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

2. The respondent sustained injuries as a result of an accident that took place on 19.11.2005 caused by a bus bearing registration No.TN21-N-0552 owned by the Appellant Transport Corporation. The respondent preferred a compensation claim before the Motor Accident Claims Tribunal in M.C.O.P.No.107 of 2006 seeking for a compensation of Rs.2,00,000/- as a result of the said accident. The Motor Accident Claim Tribunal by its award dated 23.01.2009 in M.C.O.P.No.107 of 2006 directed the Appellant to pay the respondent a sum of Rs.83,900/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realization.

3. Aggrieved by the quantum of compensation awarded by the Tribunal, the Appellant Transport Corporation has filed the instant appeal.

4. Heard Mr.V.Ramesh, learned counsel for the Appellant. Despite service of notice on the respondent and his name having been printed in the cause list today, none appears on behalf of the respondent.

5. According to the learned counsel for the Appellant, the primary ground for challenge in the instant appeal is that the Tribunal has erroneously awarded Rs.60,000/- for 40% disability, Rs.15,000/- for pain and suffering, Rs.2,400/- for loss of income, Rs.2,500/- for transport and Rs. 4,000/- for nourishment and awarded a total compensation at Rs.83,900/-. According to the learned counsel for the Appellant, the findings given by the Tribunal under various heads are erroneous.

6. This Court after having considered the materials available on record and after examining the impugned award and after hearing the submissions of the learned counsel for the Appellant, observes the following:

a) The Appellant has not disputed the nature of injuries sustained by the respondent before the Tribunal. The respondent was a labourer at the time of accident and he sustained fractures in his left leg as a result of the accident.

b) In the claim petition filed by the respondent before the Tribunal, the respondent had claimed that he was earning monthly salary of Rs.3,000/- at the time of accident, but the Tribunal has fixed the monthly salary of the respondent only at Rs.2,400/-.

c) The accident is said to have been taken place on 19.11.2005. The Tribunal has awarded a sum of Rs.2,500/- towards transportation charges and Rs.4,000/- towards extra nourishments charges. In the considered view of this Court, considering the year of the accident, the said compensation is a just compensation.

d) There is a clear finding given by the Tribunal that the respondent suffered 40% disability as a result of the accident. No contra evidence has been placed by the Appellant before the Tribunal. The Tribunal has assessed the disability at 40% and awarded Rs.60,000/- towards the said disability which according to the considered view of this Court is a just compensation. Considering the nature of injuries and the nature of employment, the Award of Rs.15,000/- towards pain and suffering is a reasonable sum.

7. In the light of the above observations, this Court is of the considered view that the compensation awarded by the Tribunal is a just compensation.

8. In the result, the Civil Miscellaneous Appeal is dismissed without costs. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

9. Accordingly, the Appellant is directed to deposit the amount awarded by the Tribunal together with interest from the date of claim till the date of realisation, after deducting the amount that has already been deposited, to the credit of MCOP. No.107 of 2006 on the file of the Motor Vehicles Accidents Claims Tribunal No.IV, Fast Track Court, Ponneri within a period of four weeks from the date of receipt of a copy of this Order. On such deposit being made, the respondent is permitted to withdraw the amount lying to the credit of MCOP. No.107 of 2006 on the file of the Motor Vehicles Accidents Claims Tribunal No.IV, Fast Track Court, Ponneri with accrued interest by filing an appropriate application.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Vehicles Accidents Claims Tribunal No.IV,
Fast Track Court, Ponneri
2. The Record Clerk,
VR Section,
High Court, Madras.

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GMR(CO)
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