

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.519 of 2008

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division-III,
Kancheepuram.Appellant

Vs

1.K.Jagadesan
2. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division-I,
Villupuram. Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award made in MCOP.No.3230 of 2001 dated 15.06.2005 on the file of the Motor Accident Claims Tribunal, (Small Causes Court No.4), Chennai.

For Appellant : Mr.N.Anand

For Respondents : R1 & R2 - No appearance

JUDGMENT

The instant appeal has been filed by the Transport Corporation challenging the Award dated 15.6.2005 passed by the Motor Accident Claims Tribunal, (Small Causes Court IV), Chennai in MACTOP.No.3230 of 2001

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

i) The 1st respondent sustained injuries caused due to an accident caused by the collision of two buses bearing Registration No.TN 32 N 0769 and TN-32-N-0905.

ii) The 1st respondent as a passenger stood in the rear right corner of the bus bearing Registration No.TN 32 N 0905. Both the buses are owned by the appellant Transport Corporation. The 1st respondent preferred a compensation claim before the Motor Accident Claims Tribunal in MACTOP.No.3230 of 2001, against the appellant Transport Corporation.

iii) The Tribunal, by its Award dated 15.6.2005 in MCOP.No.3230 of 2001 on coming to the conclusion that both the buses are at fault, directed the appellant as well as the

2nd respondent to pay the 1st respondent, a sum of Rs.2,23,000/- together with interest at the rate of 9%per annum from the date of claim, till the date of realisation and also awarded costs in favour of the 1st respondent.

iv) Aggrieved by the Award dated 15.6.2005, passed in MACTOP.No.3230 of 2001, the instant appeal has been filed.

3. Heard. Mr.N. Anand, learned counsel for the appellant. Since the appeal is of the year 2008, and this Court is going to confirm the Award passed by the Tribunal, there is no necessity to serve the notice on the respondents.

4. According to the learned counsel for the appellant, the primary ground for challenge in the instant appeal is that without proving the negligence of the driver of the bus owned by the appellant Corporation, the tribunal has come to the erroneous conclusion that the appellant as well as the 2nd respondent is liable to compensate the loss suffered by the 1st respondent for the injuries sustained by him as a result of the accident.

5. Learned counsel for the appellant would further contend that the tribunal has erred in awarding Rs.5,000/- for transportation charges, Rs.5,000/- for nourishment, Rs.1,00,000/- for medical expenses, Rs.18,000/- for loss of income during the treatment period, Rs.10,000/- for pain and sufferings, Rs.60,000/- for 50% of permanent disability and Rs.25,000/- for loss of future earnings.

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. It is an undisputed fact that the 1st respondent sustained injuries as a result of the accident, caused by the bus owned by the appellant transport Corporation.

b. In his claim petition, the 1st respondent has disclosed that he sustained grievous injuries which caused damage to his right hand and he had to undergo surgeries. No contra evidence has been produced by the appellant to disprove the claim of the 1st respondent before the tribunal. The 1st respondent had made a claim of Rs.3 lakhs before the tribunal and the tribunal has awarded a sum of Rs.2,23,000/- in his favour.

7. The compensation awarded by the tribunal covers Rs.5000/- towards transportation cost, Rs.5000/- towards nourishment charges, Rs.1 lakh towards medical expenses, Rs.18,000/- towards loss of income during treatment period, Rs.10,000/- towards pain and suffering, Rs.60,000/-towards 50% permanent disability, Rs.25,000/- towards loss of earning, in all put together, a sum of Rs.2,23,000/- was awarded to the 1st respondent as total compensation.

8. As seen from the Award of the tribunal, the 1st respondent has produced medical bills which are marked as Ex.P.10 for a sum of Rs.1,02,000/- and the tribunal has assessed the reimbursement of medical expenses only at Rs.1,00,000/-. The percentage of permanent disability suffered by the 1st respondent is supported by the disability certificate which is marked as Ex.P.12 before the Tribunal. No contra evidence has been produced by the appellant to disprove the percentage of permanent disability suffered by the 1st respondent. The tribunal has also awarded a sum of Rs.1,25,000/- towards loss of earning which according to the considered view of this court is a reasonable amount.

9. As seen from the impugned award, the compensation awarded to the 1st respondent is a just and reasonable compensation. In view of the above observations, this court is of the considered view that there is no merit in the instant appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

10. The appellant is directed to deposit the entire award amount along with interest as awarded by the tribunal, if not already deposited, to the credit of MACTOP No.3230 of 2001 within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the 1st respondent is permitted to withdraw the same on making appropriate application. Consequently, the connected M.P.No.1 of 2008 is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

msr

To

1. Motor Accident Claims Tribunal, (Small Causes Court IV), Chennai
2. The Record Keeper, VR Section, Madras High Court.

RGN(CO)

sm:20.9.2018

CMA.519 of 2008