

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.606 of 2008

The Managing Director.
TamilNadu State Transport Corporation Ltd.,
Vellore.Appellant/ Respondent

Vs

Umasankar @ SathishRespondent/ petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the Motor Accident Claims Tribunal cum Additional District Judge, Fast Track Court No.V, Chengalpattu at Thiruvallur in M.C.O.P.No.1178 of 2004 dated 04.01.2007.

For Appellant : Mr.S.Prem Kumar
for N. Anand

For Respondent : Not ready in notice
regarding S/R

JUDGEMENT

The instant appeal has been filed by the Transport Corporation challenging the Award dated 04.01.2007 passed by the Motor Accident Claims Tribunal cum Additional District Judge, Fast Track Court No.V, Chengalpattu at Thiruvallur in M.C.O.P.No.1178 of 2004.

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

(i) The respondent sustained injuries on 09.06.2004, as a result of an accident caused by a bus bearing Registration No.TN-23-N-0740 owned by the Appellant Transport Corporation. The respondent preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.1178 of 2004, seeking compensation of Rs.5,00,000/-.

(ii) The Motor Accident Claims Tribunal, by its Award dated 04.01.2007 in M.C.O.P.No.1178 of 2004 directed the Appellant to pay the respondent a sum of Rs.1,75,000/- together with interest at the rate of 7.5%,

per annum from the date of claim, till the date of realisation and also awarded costs.

3. Aggrieved by the Award dated 04.01.2007 in M.C.O.P.No.1178 of 2004, the instant appeal has been filed by the Transport Corporation.

4. Heard, Mr.S.Premkumar, learned Counsel for the Appellant. Till date, notice has not been served on the respondent. Since the appeal relates to the year 2008 and this Court is going to confirm the Award, there is no necessity to serve the notice in this appeal on the respondent.

5. According to the learned counsel for the Appellant, the Tribunal has erred in concluding that the accident took place only due to the rash and negligent driving by the driver of the bus owned by the Appellant Transport Corporation.

6. According to him, the Tribunal has also erred in relying upon the evidence of PW1, the claimant and PW2, i.e., the Doctor for ascertaining the nature of injuries sustained by the respondent.

7. Further, he would contend that the Tribunal has erred in relying upon the evidence and exhibits of PW1 in respect of the age, occupation, monthly income and the medical reports. According to him, the compensation awarded by the Tribunal under various heads is excessive.

8. 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 as follows;

(a) This Court has examined the impugned Award. As seen from the Award, the respondent was an electrician, aged 22 years at the time of the accident. He sustained fracture of right hand and multiple injuries all over the body. He has also produced the disability certificate which is marked as Ex.P3 before the Tribunal to prove that he had suffered 60% disability, as a result of the injuries sustained by him due to the accident.

(b) He has taken treatment as an inpatient for two months and a surgery was done on him and a steel rod was also fixed. He was unable to lift any heavy articles with the help of his right hand. The Tribunal has considered all these aspects and only thereafter has passed the impugned Award in favour of the respondent.

(c) The Tribunal has awarded a sum of Rs.3000/- towards injuries and a sum of Rs.5000/- towards treatment and other expenses and a sum of Rs.40,000/- towards pain

and suffering and a sum of Rs.75,000/- towards loss of earning power and a sum of Rs.25,000/- towards future medical expenses and in all put together, the respondent was awarded a compensation of Rs.1,75,000/-.

(d) No contra evidence has been produced by the Appellant to disprove the nature of injuries sustained by the respondent as a result of the accident. The age and avocation of the respondent at the time of the accident has also not been disputed by the Appellant before the Tribunal.

9. In the light of the above observations, this Court does not find any merit in the instant appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed. No Costs. Consequently the Connected Miscellaneous Petition No.1 of 2008 is closed.

10. The Appellant Transport Corporation is directed to deposit the compensation amount as awarded by the Tribunal along with interest from the date of claim till the date of realisation, if not already deposited, to the credit of M.C.O.P.No.1178 of 2004 and on such amount being deposited, the respondent/claimant is permitted to withdraw the amount by filing an appropriate application.

Sd/-

Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

arb/msr

To

1. Motor Accident Claims Tribunal cum Additional District Judge,

Fast Track Court No.V,
Chengalpattu,
Thiruvallur District.

2. The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to Mr.N.ANAND , Advocate SR.No. 65933

C.M.A.No.606 of 2008

ASK(15/10/2018)