

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3005 of 2018
and C.M.P.No.22784 of 2018

The Managing Director,
Tamil Nadu Transport Corporation,
Railway Station Road,
Kumbakonam Town and Munsif. ... Appellant/ Respondent

Vs.

Vimala Devi ... Respondent/ Petitioner

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 19.02.2018 made in M.C.O.P.No.213 of 2015 on the file of the Motor Accident Claims Tribunal, Sub Court, Mannarkudi.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The Civil Miscellaneous Appeal is filed against the award dated 19.02.2018 made in M.C.O.P.No.213 of 2015 on the file of the Motor Accident Claims Tribunal, Sub Court, Mannarkudi.

2.The appellant is respondent in M.C.O.P.No.213 of 2015 on the file of the Motor Accident Claims Tribunal, Sub Court, Mannarkudi. The respondent filed the said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the injuries suffered by her in the accident that took place on 04.02.2013.

3.According to the respondent, on 04.02.2013, while she was standing in Mannargudi Bus Stand, the driver of the appellant bus bearing Registration No.TN 49 N 1891, drove the same in a rash and negligent manner and dashed against the respondent/claimant. Due to the said impact, she sustained grievous injuries and she took treatment in three different hospitals for that injuries. At the time of accident, the respondent/claimant was aged 18 years and was a school student.

4.The appellant-Transport Corporation filed counter statement and denied all the averments made by the respondent. According to the appellant, the driver of the bus drove the same with due care and caution, observing traffic rules and regulations. While he was about to stop the bus, the school students got entering into the bus by pushing themselves and due to that act, the respondent fell down, and sustained grievous injuries. The respondent had voluntarily invited the accident and contributed her negligence. Hence, the appellant is not liable to pay any compensation to the respondent and prayed for dismissal of the claim petition.

5.Before the Tribunal, the respondent examined herself as P.W.1 and a Doctor was examined as P.W.2 and 12 documents were marked as Exs.P1 to P12. On behalf of the appellant, no oral and documentary evidence was let in.

6.The Tribunal after considering the pleadings, oral and documentary evidence held that the driver of the appellant-Transport Corporation bus is responsible for the accident and directed the appellant-Transport Corporation to pay a sum of Rs.7,76,535/- as compensation to the respondent/claimant.

7.Aggrieved by the said award dated 19.02.2018 made in M.C.O.P.No.213 of 2015, the appellant-Transport Corporation has filed the present Civil Miscellaneous Appeal.

8.The learned counsel appearing for the appellant contended that the Tribunal erred in fixing permanent disability of the respondent at 25%, which is on the higher side since she sustained only simple injuries. The Tribunal failed to fix the disability of the respondent for the whole body instead of fixing disability for particular limbs. The Tribunal erred in adopting multiplier method for simple injuries that cannot affect her earning capacity. The Tribunal awarded excess amount towards pain and suffering, loss of marriage prospects and prayed for setting aside the award passed by the Tribunal.

9. I have heard the learned counsel for the appellant and perused all the materials available on record.

10.The respondent/claimant marked F.I.R. as Ex.P1, which shows that the accident occurred due to rash and negligent driving by the driver of the appellant-Transport Corporation bus. The respondent as P.W.1 has also deposed to that effect. The Tribunal after considering Ex.P1-F.I.R. and the evidence of P.W.1 held that the driver of the appellant-Transport Corporation bus is responsible for the accident and I do not find any

error in the said reasoning of the Tribunal, warranting interference by this Court.

11.As far as the quantum of compensation is concerned, the Tribunal has fixed 25% of disability on the respondent, as assessed by P.W.2-Doctor and awarded a sum of Rs.4,53,600/- (Rs.8,400/- X 18 X 12 X 25/100) towards loss of income. The Tribunal has awarded a sum of Rs.1,00,000/- towards pain and suffering, a sum of Rs.75,000/- towards loss of marriage prospects, a sum of Rs.50,000/- towards loss of earning capacity, a sum of Rs.15,000/- towards transportation, a sum of Rs.20,000/- towards extra nourishment, a sum of Rs.20,000/- towards attender's loss of income and a sum of Rs.42,935/- towards medical bills. Thus, the Tribunal awarded a total sum of Rs.7,76,535/- as compensation to the respondent/claimant. In my considered opinion, the compensation awarded by the Tribunal is just and reasonable. In the above circumstances, this Court is not inclined to interfere with the award passed by the Tribunal.

12.Accordingly, the award passed by the Tribunal is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. The Appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent/claimant is permitted to withdraw the award amount with interest and costs, after adjusting the amount already withdrawn, if any, by making necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

krk

Sd/-

Assistant Registrar(CS viii)

//True Copy//

Sub Assistant Registrar

To
The Subordinate Judge,
Motor Accidents Claims Tribunal,
Mannarkudi.

Copy to
The section officer,
VR Section, High court, Madras
+1cc to Mr.D.Venkatachalam , Advocate SR.No. 88234

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A SK (01/04/2019)