



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.12.2017

PRONOUNCED ON : 23.07.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.M.A. (MD) No. 945 of 2015

and

M.P. (MD) No. 1 of 2015

WEB COPY

The Managing Director,
M/s. Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam Division,
Periyamilaguparai,
Trichy - 01.

... Appellant / Respondent

Vs.

Anthoniraj

... Respondent / Petitioner

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and award made in M.C.O.P.No.2436 of 2013, dated 29.10.2014 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tiruchirapalli.

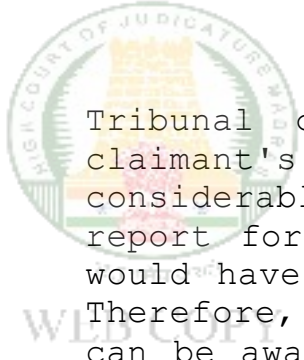
For Petitioner : Mr.D.Sivaraman,
Standing Counsel.
For Respondent : Mr.A.Saravanan

JUDGMENT

The award passed by the learned Special Subordinate Judge, Motor Accident Claims Tribunal, Trichy in M.C.O.P.No.2436 of 2013 dated 29.10.2014 is under challenge in this appeal, at the instance of Tamil Nadu State Transport Corporation Ltd., Kumbakonam Division both on the ground on negligence as well as quantum.

2. The respondent herein was none other than the appellant's conductor, who was on duty in the ill-fated bus on 19.05.2010. The claimant/respondent herein suffered injuries all over his body. He suffered severe head injury and also fracture in the ribs on both sides. The catalogue of injuries suffered by him is set out both in the award as well as in the claim petition. The Tribunal has awarded a sum of Rs.11,47,125/- as compensation together with interest. Contending that the same is excessive, this appeal has been filed.

3. The appellant admits liability to the extent of Rs.5,00,000/-. The award is under challenge in respect of the



Tribunal ought to have awarded a sum of Rs.50,000/- towards claimant's future medical expenses. The claimant has been put to considerable physical pain and sufferings. He has been unable to report for duty. He had to retire from service prematurely. This would have certainly had severe emotional impact on the claimant. Therefore, this Court is of the view that a sum of Rs.1,50,000/- can be awarded under the head of pain and sufferings. The Doctors have assessed the physical disability of the claimant at 39%. The claimant continues to suffer from giddiness and hears noises in his ears. Since he has suffered frontal bone injuries, sense of smell has come down and ribs of both side has been fractured. Therefore, all these injuries will considerably impair the claimant's activity and movement and he would certainly need the assistance of others. Therefore, for loss of amenities, the claimant would be entitled to a sum of Rs.1,50,000/-. Thus the compensation payable by the appellant comes to Rs.9,93,941/-. This can be rounded off to **Rs.10,00,000/-**. In other aspects, the award passed by the Tribunal is confirmed.

8. In the above terms, the award passed by the Tribunal is modified. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The appellant shall deposit the modified amount within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the entire award amount, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal. No Costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The Special Sub Judge,
Motor Accidents Claims Tribunal,
Tiruchirapalli.
2. The Record Keeper, V.R.Section, (2 Copies)
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.D.Sivaraman, Advocate SR.No.74787
Pjl/pmu
MK/SKN/SAR 4/09.08.2018/3P/5C