



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A(MD)No.974 of 2018

and

C.M.P(MD)No.10327 of 2018

Tamil Nadu State Transport Corporation,
Karaikudi,
Rep. through its Managing Director. .. Appellant/Respondent

-Vs-

Veeraperumal .. Respondent/Petitioner

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree, dated 12.11.2011 passed in M.C.O.P.No.32 of 2010, on the file of the Motor Accident Claims Tribunal/Sub Court, Paramakudi.

For Appellant : Mr.D.Sivaraman

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation against the award, dated 12.11.2011 made in M.C.O.P.No.32 of 2010 by the Motor Accident Claims Tribunal/Subordinate Judge, Paramakudi.

2. Facts-in-nutshell for the disposal of this appeal, are as follows:-

2.1. On 09.09.2009 at about 07.50 p.m., the respondent/claimant was riding his bicycle at Madurai-Rameshwaram National Highways near Mamu Garden Hotel, Paramakudi. While he was proceeding from East to West on the right side of the road, a bus bearing Registration No.TN-63-N-1085 belonging to the appellant/Transport Corporation driven by its driver in a rash and negligent manner came behind the bicycle and dashed against the same, due to which, the respondent/claimant sustained injuries all over the body. A case in Crime No.356 of 2009 was registered by the Town Police Station, Paramakudi, against the driver of the appellant/Transport Corporation bus and the same is pending. Immediately, the respondent/claimant was taken to Government Hospital, Paramakudi and due to the injuries sustained by him, on the same day, he was taken to Meenakshi Mission Hospital, Madurai and admitted as an inpatient. His right leg was amputated upto ankle on 26.10.2009. According to the respondent/claimant, he was a retired Treasury Officer and was doing a Real Estate business and earning a sum of Rs.10,000/- and doing agriculture and due to the accident, he could not do his work as he was doing earlier. Therefore, he filed the claim petition claiming a sum of Rs.10,00,000/-.



2.2. The appellant/Transport Corporation filed the counter statement denying all the averments stated in the claim petition and prayed for the dismissal of the claim petition.

2.3. Before the Tribunal, on the side of the respondent/claimant, P.W.1 and P.W.2 were examined and Exs.P.1 to P.11 were marked. On behalf of the appellant/Transport Corporation, R.W.1 was examined and Ex.R.1 was marked.

2.4. On contest, the Tribunal, considering the pleadings, oral and documentary evidence let in on either side, found that the accident occurred only due to the rash and negligent driving of the driver of the appellant/Transport Corporation bus and awarded a sum of Rs.4,07,757/- along with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation and proportionate costs.

2.5. Aggrieved over the same, the appellant/Transport Corporation has filed the present appeal.

3. Heard the learned counsel for the appellant/Transport Corporation and perused the materials available on record.

4. The Tribunal, based on the evidence of P.W.1-claimant and Ex.P.1 - F.I.R registered against the driver of the Transport Corporation Bus and also Exs.P.2 to P.5, rightly came to the conclusion that the accident occurred only due to the rash and negligent driving of the appellant/Transport Corporation bus and hence, the said finding of the Tribunal based on evidence, cannot be interfered with.

5. With regard to the compensation, the Tribunal, in the absence of any materials on record to prove the income of the deceased, rightly fixed the monthly income of the respondent/claimant at Rs.3,000/- and deducted one third amount towards his personal expenses and arrived at the annual income of the respondent/claimant at Rs.24,000/- (Rs.2,000 X 12) and taking into consideration his age as 68, applied multiplier '5', determined the loss of income at **Rs.1,20,000/-**, which, in the opinion of this Court, warrants no interference and accordingly, the same is confirmed.

6. Similarly, the amounts awarded under the other heads, viz., a sum of **Rs.50,000/-** towards pain and sufferings; a sum of **Rs.5,000/-** towards transportation; a sum of **Rs.10,000/-** towards attendant charges; a sum of **Rs.10,000/-** towards extra nourishment and based on Exs.P.8 and P.9-medical bills, awarded a sum of **Rs.2,12,757/-** towards medical bills, are reasonable and they are also confirmed.



7. The rate of interest awarded by the Tribunal at 7.5% per annum remains unaltered.

8. In the result, this Civil Miscellaneous Appeal is dismissed. The appellant/Transport Corporation is directed to deposit the entire award amount to the credit of M.C.O.P.No.32 of 2010, on the file of the Motor Accidents Claims Tribunal/Subordinate Judge, Paramakudi, less the amount already deposited, if any, along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation with proportionate costs, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the Tribunal is directed to transfer the award amount to the Personal Savings Bank Account Number of the respondent/claimant, after getting his Account Details, within a period of two weeks thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS-I)

To

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

+1cc to Mr.D.Sivaraman, Advocate Sr.No.90754

PS

VB/PM/SAR1/20.12.2018/3P/5C

C.M.A(MD) No.974 of 2018
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