

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.07.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1144 of 2007
and
M.P.No.1 of 2007

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Villupuram Division II,
Vellore.

: Appellant/Respondent No.1

Vs

1. Kumar : 1st Respondent/Petitioner

2. Rajeswari

3. The Oriental Insurance Co. Ltd,
Pondy. : Respondents 2 & 3/Respondents 2 & 3

Appeal under Section 173 of the Motor Vehicles Act against
the Judgment and decree dated 07.07.2006 made in MACTOP No.938
of 2004 on the file of the Motor Accidents Claims Tribunal (II
Additional Sub Judge), Cuddalore.

For Appellant : Mr.S.V.Vasantha kumar

For Respondents : Mr.N.Damodaran (for R1)
Mr.M.B.Gopalan (for R3)

JUDGMENT

This appeal is preferred by the appellant Transport
Corporation against the award of a sum of Rs.2,93,600/- towards
compensation to the claimant, due to the injuries suffered by
him.

2.The case in brief is as follows:

On a fateful day, i.e. on 21.06.2000, the first respondent /
claimant had travelled in a Mini Lorry belonging to the second
respondent and insured with the third respondent insurance
company, as a Loadman. At about 5.45 pm, when the said vehicle
was proceeding to Kullanchavadi from Neyveli Township towards

west to east direction, a bus bearing Reg.No.TN27-N-0885 belonging to the appellant Transport Corporation came in a rash and negligent manner from the opposite direction and dashed against the Mini Lorry, due to which, the claimant sustained grievous injuries in all over the body. Stating so, the claimant filed a claim petition claiming a compensation of Rs.5,00,000/-. On a consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.2,93,600/- with interest at the rate at 7.5% per annum from the date of petition. Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant submitted that the Tribunal has erred in holding that the accident had occurred due to the rash and negligent driving of the driver of the appellant transport corporation bus. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

4.The learned counsel for the respondents 1 and 3 submitted that the accident had occurred only due to the negligent driving of the driver of the appellant's bus. They also submitted that taking note of the nature of the injuries sustained by the claimant, the Tribunal has awarded the just compensation and hence, the same does not call for any interference by this Court.

5.Heard the learned counsel appearing on either side and perused the materials available on record carefully and meticulously.

6.The respondent/claimant as PW.1 deposed before the Tribunal that the driver of the bus drove the vehicle in a rash and negligent manner and dashed against the Mini Lorry and due to the same, he sustained grievous injuries and 30% permanent disability. Ex.P1 First Information Report supported the testimony of P.W.1 as to the factum and manner of the accident. Further, there is no contra evidence adduced on the side of the appellant Transport Corporation. Taking note of the materials and evidence available on record, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation, which finding, this Court is not inclined to interfere with.

7.In respect of the quantum of compensation, the Tribunal has awarded a sum of Rs.2,44,800/- towards loss of income, Rs.17,800/- towards Medical expenses, Rs.20,000/- towards pain and sufferings, Rs.10,000/- towards extra nourishment, Rs.1,000/- towards Transportation expenses. On the whole, the

Tribunal has awarded a sum of Rs.2,93,600/- towards compensation, which in the considered view of this Court, is just and reasonable, as the same is based on the materials and evidence adduced by the first respondent/claimant and hence, the same need not be interfered.

8.In the result, affirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

9.The appellant Transport Corporation is directed to deposit the award amount as ordered by the Tribunal, along with interest and costs, after deducting the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the same to the savings bank account of the first respondent / claimant through RTGS within one week thereafter.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

vum/srk/rk

To

1.The Motor Accidents Claims Tribunal,
/ II Additional Sub Judge,
Cuddalore.

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

+1cc to Mr.M.B.Gopalan, Advocate, SR.No.62466.

RSV(CO)
CSR:13.02.2020

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