

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.12 of 2004

The Managing Director,
M/s. Tamil Nadu State Transport Corporation
(Coimbatore Division II) Ltd.,
Chennimalai Road, Erode.

.. Appellant /2nd Respondent

Vs.

1. K.M.Venkatachalam ..1st Respondent /Petitioners
2. C.Rajan Nayer alies C.R.Nayer ..2nd Respondent/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 21.3.2001 made in MCOP.No.175 of 1999 on the file of Motor Accidents Claims Tribunal, Principal Sub Court, Gobichettipalayam.

For Appellant : Mr. S.V.Vasanthakumar
For R2 : No appearance

J U D G M E N T

This appeal is preferred by the Transport Corporation against the award of a sum of Rs.3,30,233/- towards compensation to the first respondent/claimant due to the injuries sustained by him in a motor vehicle accident.

2. The case in brief is as follows:

On the fateful day, i.e., on 01.05.1999, at about 11.30 am, when the first respondent/claimant was driving his Hero Honda Bike bearing Registration No.TA N 9111 from his shop at Vettaikarankoil to his house at Kodachur on the extreme left side of the Kurunandur Gobichettipalayam Main Road, a bus bearing Registration No. TN 33-N-0727 belonging to the appellant Transport Corporation came in a rash and negligent manner and hit the bike from behind. Due to the said impact, the first respondent/claimant sustained grievous injuries, for which, he filed a claim petition claiming a sum of Rs.5,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation

of Rs.3,30,233/- with interest at the rate of 9% 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 - Transport Corporation contended that the quantum of compensation awarded by the Tribunal is excessive, exorbitant and disproportionate to the injuries sustained by the first respondent and hence, the same has to be reduced.

4.Heard the learned Counsel for the appellant and perused the materials available on record carefully and meticulously.

5.The Record of proceedings would disclose that though this appeal was admitted way back in the year 2007, no steps have been taken by the appellant Transport Corporation to serve papers to the first respondent. There is no representation on behalf of the second respondent. However, having regard to the efflux of time, this Court is inclined to decide this appeal on merits.

6.The learned counsel for the appellant Transport Corporation has not disputed the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus and hence, the said finding of the Tribunal need not be interfered with by this Court.

7.As regards the quantum of compensation awarded by the Tribunal, the first respondent/claimant himself examined as P.W.1, who deposed that he was aged 43 years and was earning a sum of Rs.5,000/- per month. P.W.3/Doctor, who examined the claimant, deposed in his evidence that the first respondent/claimant sustained the following grievous injuries:

- (i)fracture in right leg ankle;
- (ii)fracture in right leg patella and pelvis;
- (iii)fracture in left hand small finger;
- (iv)Muscle in right leg thigh severed by 30cm and cut away from the leg;
- (v)fracture and grievous injuries in left leg and all over the body.

After assessing the first respondent/claimant, the doctor issued Ex.P12-disability certificate to the tune of 68%. Ex.P13 is X-ray, which revealed that the first respondent/claimant sustained multiple injuries. The Tribunal, after taking note of the age, avocation, income and the injuries sustained by the first respondent/claimant, has taken the monthly income of the first respondent/claimant at Rs.2,250/- (Rs.75/- per day); adopted the multiplier of 15 and permanent disability at 65%; and quantified the compensation under the head "loss of income due to

disability" at Rs.2,63,250/- (27,000/- x 15 x 65/100). The Tribunal has rightly determined the income, adopted the multiplier and assessed the loss of income for the permanent disability suffered by the first respondent/claimant and hence, the same does not require any interference by this Court.

8. That apart, the Tribunal has awarded Rs.56,983/- towards medical charges, which is the actual medical expenses incurred by the first respondent/claimant for his treatment and the same is hereby confirmed. Further, the Tribunal has quantified Rs.5,000/- towards pain and suffering and Rs.5,000/- towards extra nourishment. Thus, the Tribunal has awarded the total compensation of Rs.3,30,233/- to the first respondent/claimant, which are fair, just and reasonable and the same cannot be said to be excessive and exorbitant at any stretch of imagination, considering the nature of the injuries sustained by the first respondent/claimant and in the given facts and circumstances of the case.

9. In fine, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant-Transport Corporation is directed to deposit the entire compensation amount with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit, the Tribunal shall transfer the same to the savings bank account of the first respondent/claimant through RTGS within a period of one week thereafter.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rk/av

To

1. The Motor Accidents Claims Tribunal,
The Principal Sub Court,
Gobichettipalayam.

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

+1 cc to M/s.S.V.Vasanth, Advocate Sr.No. 49179

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BP (CO)

RMP (21/01/2021)