

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1917 of 2007
and M.P.No.1 of 2007

The Managing Director
Tamil Nadu State Transport Corporation Limited
No.12, Ramakrishna Road
Salem Town & District. Appellant/Respondent

Vs

N.Pandurangan Respondent/Petitioner

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 15.05.2006 made in MCOP No.681 of 2005 on the file of the Motor Accidents Claims Tribunal and Fast Track Court-III at Namakkal.

For Appellant : Mr.S.V.Vasantha Kumar

For Respondent : No appearance

JUDGMENT

This appeal is preferred by the Transport Corporation against the award of a sum of Rs.1,50,000/- towards compensation to the respondent, for the injuries suffered by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 23.06.2005 at about 10.30 p.m., the respondent was getting down from the Bus (Route No.16-G) bearing Reg.No.TN-27-N-0426 belonging to the appellant, near Iyyappan Temple Bus Stop in the Namakkal to Mohanur Road. At that time, the driver of the bus moved the bus suddenly in a rash and negligent manner, without making any horn or giving signal. Due to the same, the respondent fell down from the bus and sustained injuries. The respondent filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal arrived at the total compensation at Rs.1,50,000/- with interest at the rate of 7.5% p.a., from the date of petition.

3.Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant Transport Corporation has submitted that the accident had occurred only due to the negligence of the claimant and hence the appellant Transport Corporation is not liable to pay any compensation to the claimant. He further submitted that the Tribunal has erred in awarding a sum of Rs.1,00,000/- towards medical bills alone. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.There is no appearance on behalf of the respondent.

6.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

7.This appeal was filed in the year 2007 and a conditional order of stay was passed by this Court on 18.08.2007. Till now, the appellant Transport Corporation has not taken steps to serve the respondent.

8.In the case on hand, even though it has been agreed by both parties that the incident had taken place at 10.45 p.m. on the date of accident, the driver of the bus admitted the claimant in the hospital at 11.00 p.m. Even though in the present case, it has been contended by the Transport Corporation before the Tribunal that there was delay in filing the First Information Report, taking note of the admission of the claimant in the hospital at 11.00 p.m., the Tribunal has observed that the same itself can be taken as filing First Information Report. Further, relying upon the evidence of P.W.2-Jayaraman, who deposed that only due to the rash and negligent driving of the driver of the bus, the claimant fell down from the bus, the Tribunal fixed the liability on the driver of the bus. The Tribunal has correctly analysed the materials and evidence and came to the conclusion that the driver of the bus alone was responsible for the accident, which finding this Court is not inclined to interfere.

9.With regard to the quantum of compensation awarded by the Tribunal, based on Ex.P7-Disability Certificate, the Tribunal fixed the disability at 40% and awarded a sum of Rs.35,000/- towards disability, which does not require any interference by this Court. The Tribunal has also awarded a sum of Rs.1,00,000/- towards medical expenses, relying upon Ex.P6-Medical Bills. It is an actual expenditure and hence the same is confirmed. The Tribunal has also awarded Rs.10,000/- towards pain and suffering and Rs.5,000/- towards transport and extra nourishment expenses.

The amounts awarded towards these heads are very reasonable and hence the same are confirmed.

10.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Transport Corporation is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

KM

To

- 1.The Motor Accidents Claims Tribunal
and Fast Track Court-III at Namakkal.
- 2.The Section Officer,
VR Section, Madras High Court.

+lcc to Mr.S.V.Vasantha Kumar, Advocate SR.No.48431

C.M.A.No.1917 of 2007
and M.P.No.1 of 2007

NMI (CO)
GMY (04/10/2019)

WEB COPY