

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1902 of 2006

The Managing Director

Tamil Nadu State Transport Corporation Ltd

Coimbatore Division II

Erode

..Appellant / Respondent

Vs

G.Selvam

S/o.Gopal

..Respondent / Petitioner

Prayer: Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 31.01.2006 made in MCOP No.401 of 2004 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Salem.

For Appellant

: Mr.S.V.Vasantha Kumar

JUDGMENT

This Civil Miscellaneous Appeal is directed against the award passed by the Tribunal for a sum of Rs.45,500/- as compensation payable by the appellant herein to the claimant / respondent herein.

2. The claimant was aged 33 at the time of accident. When he was riding his TVS 50 Motor cycle bearing Reg.No.TN 34 8158 at 2.30pm in the Salem to Sankari main Road, a Transport Corporation bus bearing Reg.No.TN 33 N 1652 came in a rash and negligent manner, hit the claimant. Due to the said accident, the claimant sustained fractures on his right hand and injuries all over the body. Immediately, he was taken to Government Hospital, Sankari and shifted to L.K.M Hospital, Erode for further treatment. Claiming that the accident had happened only due to the rash and negligent driving of the driver of the Transport Corporation bus, the claimant has claimed a sum of Rs.2,00,000/- as compensation, against which, the Tribunal has passed an award for a sum of Rs.45,500/-.

3. Heard the learned counsel for the appellant. Though this appeal was admitted way back in the year 2006, the

appellant has not taken proper steps to serve notice on the other side. However, considering the fact that the appeal is of the year 2006, this Court is inclined to proceed with this appeal on merits.

4. The learned counsel for the appellant Transport Corporation submitted that the Tribunal erred in relying upon the evidence of PW1/claimant, in respect of manner of accident, nature of injury, period treatment, disability, age, occupation and monthly income of the claimant and the award passed by the Tribunal for a sum of Rs.45,500/- is on the higher side.

5. An analysis of the award of the Tribunal would go to show that the claimant was examined himself as P.W.1 and has narrated the accident in a detailed manner. The First Information Report was registered against the driver of the Transport Corporation bus. The accident was reported without any delay. There is a solid evidence with regard to the road traffic accident. Ex.A.1 First Information Report and Ex.A.3 Motor Vehicle Inspector's Report are the significant documents with regard to the manner of accident, which were rightly considered by the Tribunal. There is no feeble attempt by the appellant herein to frustrate the contribution of the above documents into insignificance. Considering all the above facts and circumstances, the Tribunal has concluded that the accident was due to the rash and negligent driving of the Transport Corporation bus.

6. As far as quantum of compensation awarded by the Tribunal is concerned, the annual income of the claimant was taken at Rs.15,000/- and the disability percentage at 10%, though the doctor assessed the same at 35%. Based on these aspects, the Tribunal has calculated the loss of income at Rs.25,500/- by applying the multiplier 17. Further the Tribunal has awarded a sum of Rs.5,000/- and Rs.15,000/- towards pain and sufferings and medical expenses. This Court is of the opinion that the quantum arrived at by the Tribunal is perfectly in accordance with law, which does not require any interference at the hands of this Court. Viewed from any angle, this Court finds no other outcome except the one arrived at by the Tribunal.

7. In such view of the matter affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Transport Corporation shall deposit the entire compensation amount, along with interest and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, 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 deposited amount to the Savings Bank Account of the claimant / injured /respondent herein, forthwith, through RTGS.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate Court,
Salem

Copy to : The Section Officer,
VR Section, Madras High Court.

AKM/03.02.2020 /3P-3C/

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