

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2019

CORAM

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.1068 of 2013
and
M.P.No.1 of 2013

Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division - I,
37, Mettupalayam Road,
Coimbatore. Appellant/2nd Respondent

...vs...

1. N.Balapoorana Govindharaj1st Respondents/Petitioner
2. R.Ranganathan (R2 given up)
3. B.Senthil Kumar 2 & 3 Respondent/Respondent 1 & 3

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Fair and decretal order, dated 29.10.2010 made in M.C.O.P.No.1009 of 2007 on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Coimbatore.

For Appellant : Mr. S.S.Swaminathan

For Respondents: Mr.S.Saravanan for R1
R2 - Given up
R3 - 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.1,52,500/- towards compensation to the first respondent / claimant due to the injuries sustained by him in a motor vehicle accident.

2.The facts of the case is that on 21.12.2004 at about 8.20p.m., the first respondent was travelling in the Bajaj two-wheeler bearing Reg.No.TN-41-L-0991, as a pillion rider, on the Kovai - Pollachi Main Road. When the vehicle reached near Nanjagoundenpudhur Bus Stop, the bus bearing Reg.No.TN-38-N-0696, belonging to the appellant Transport Corporation came from the opposite direction in a rash and negligent

manner and dashed against the two-wheeler. Due to the impact, the first respondent sustained fracture and multiple injuries all over the body. Hence he filed a petition before the claims Tribunal. The Tribunal based on the materials available on record and relying upon the judgments of this Court as well as the Apex Court, has awarded a sum of Rs.1,52,500/- with interest at the rate of 7.5% per annum from the date of petition as total compensation.

3.Challenging the same, this appeal is preferred by the Transport Corporation.

4.The learned counsel for the appellant/Transport Corporation has submitted that the rider of the two wheeler had also contributed to the accident and hence fastening the liability by the Tribunal on the appellant alone is erroneous. He further submitted that the First Information Report was registered as against the rider of the two wheeler and the Tribunal has not appreciated the First Information Report in the manner known to law. He further submitted that the award passed by the Tribunal under each and every heads is excessive and exorbitant.

5.Per contra, the learned counsel for the first respondent/ claimant has submitted that the Tribunal has analysed the manner of accident based on the witnesses account and the documents produced, which does not require any interference. He further submitted that the award passed is perfectly valid and does not require any interference in the hands of this Court.

6.This Court has considered the said submissions made by the learned counsel for both sides and perused the materials available on record.

7.At the outset, it has to be pointed out that the First Information Report is not a substantive piece of evidence giving exhaustive version of the occurrence. The First Information Report cannot be raised on a higher pedestal than that of the statements made on oath. The statements made before the Tribunal has more value than the First Information Report. The Tribunal has rightly not relied upon the First Information report and rendered findings based on the witnesses and the documents produced before it. However the appellant herein has not examined any witness before the Tribunal either to disprove the manner of accident or the non-involvement of the bus in the accident. When no iota of evidence is made available before the Tribunal by the appellant, it cannot be contended to say that the fastening of liability on the part of the appellant is incorrect.

8.As far as the quantum of compensation awarded by the Tribunal is concerned, it has awarded a sum of Rs.67,000/- towards medical expenses, Rs.20,000/- towards future medical

expenses, Rs.20,000/- towards pain and suffering, Rs.3,000/- towards transport expenses, Rs.3,000/- towards extra nourishment, Rs.5,000/- towards attender charges, Rs.12,000/- towards loss of earning and Rs.22,500/- towards disability. The Tribunal has relied upon the exhibits, evidence of witnesses, medical bills, treatment records, percentage of disability assessed by the Doctor and all other aspects in a proper perspective and has awarded the above amounts under various heads to the claimants. Further, this Court is of the considered view that the amounts awarded towards these heads are reasonable and justifiable and hence the same are confirmed.

9. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant Transport Corporation is directed to deposit the award amount with interest and costs, as ordered by the Tribunal, 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 first respondent / claimant is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

arb/srk

To

1. Motor Accident Claims Tribunal,
Principal Sub Judge, Coimbatore.
2. The Section Officer, V.R.Section,
Madras High Court, Chennai 104.

+1cc to Mr.S.S.Swaminathan, Advocate, S.R.No.60473
+1cc to Mr.S.Saravanan, Advocate, S.R.No.60609

C.M.A.No.1068 of 2013
and
M.P.No.1 of 2013

MP(CO)
GN(02/03/2020)