

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1814 of 2005
and C.M.P.No.10038 of 2005

The Managing Director
Tamil Nadu State Transport Corporation
No.12, Ramakrishna Road,
Salem-7.

..Appellant/Respondent

vs.

Subramani @ Mani

..Respondent/Petitioner

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 14.06.2004 made in M.C.O.P.No.529 of 2002 on the file of the Motor Accidents Claims Tribunal, Principal Sub Judge, Salem.

For appellant : Mr.S.V.Vasanthakumar

JUDGMENT

This appeal has been filed by the Transport Corporation challenging the award dated 14.06.2004 made in M.C.O.P.No.529 of 2002 on the file of the Motor Accidents Claims Tribunal, Principal Sub Judge, Salem, in respect of the quantum and liability.

2. It is the case of the claimant that in a motor accident which took place on 26.03.2002 at about 21.10 hours, on Thammampatty to Malliyakarai Road, at Thanneer Thotti Bus Stop, Salem, he suffered fracture on left clavicle bone, cut injury on right side head and serious head injury and multiple injuries all over the body and at the time of accident, he was a driver and earning a sum of Rs.3,000/- per month. The Transport Corporation/Appellant herein filed a counter and denied the manner of accident, injuries suffered by the claimant, monthly income and medical expenses incurred and stated that the accident took place solely due to the negligence of the claimant himself and the petition is bad for non-joinder of necessary parties.

3. Upon perusal of the materials, the Tribunal came to the conclusion that the driver of the appellant Corporation

is responsible for the accident and the claimant sustained 20% permanent disability due to the fracture on his left leg and he cannot lift his left shoulder above 90 degree and he can drive the vehicles only with difficulty. The Tribunal has taken the monthly income of the deceased at Rs.2000/-. Upon the above conclusion, the Tribunal awarded the following amounts with interest at 9% p.a.:-

Sl. No.	Head	Amount awarded by the Tribunal
1	Loss of earning capacity	Rs.81,600/-
2	Medical expenses	Rs. 2,462/-
3	Pain, suffering and mental agony	Rs. 4,000/-
4	Extra Nourishment	Rs. 4,000/-
5	Transportation expenses	Rs. 400/-
6	Damages to the clothing	Rs. 200/-
	Total	Rs.92,662/-

4. The appellant has not taken any steps to serve notice on the claimant/respondent till date. Perusal of the materials on record would show that the appellant has not produced any documentary or oral evidence to prove that the driver of the Transport Corporation is not responsible for the accident, that too, when the charge sheet was filed arraying the driver of the Transport Corporation as accused. Hence, the Tribunal with no other option fixed the liability on the appellant. Similarly, the Tribunal, in the absence of oral and documentary evidence regarding the avocation and income of the claimant, has taken up the daily wages of the claimant at Rs.100/- and monthly wages at Rs.2,000/- taking 20 working days. The Tribunal, also considering the nature of injury, percentage of disability and age of the injured, awarded a sum of Rs.81,600/- under the head 'Loss of earning capacity' and awarded a sum of Rs.2,462/- towards medical expenses, based on the medical bills, which are justifiable, in view of this Court. Similarly, the compensation awarded under other heads are just and reasonable. Hence, this Court is of the view that the award passed by the Claims Tribunal does not require any interference by this Court.

5. In fine, the Civil Miscellaneous Appeal is dismissed. The award and decree dated 14.06.2004 made in M.C.O.P.No.529 of 2002 on the file of the Motor Accidents Claims

Tribunal, Principal Sub Judge, Salem, is hereby confirmed. No costs. Consequently, connected CMP is closed.

6. The appellant/Transport Corporation is directed to deposit the amount of compensation 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 said sum to the Savings Bank Account of the claimant/ respondent herein, through RTGS, thereafter.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Salem.

Copy to : The Section Officer, V.R.Section,
Madras High Court,
Chennai 104.

+1 cc to M/s.S.V.Vasanthakumar, Advocate Sr.No. 50651

AKM/25.02.2020/3P- 4C /

सत्यमेव जयते

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