

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2657 of 2006
and M.P.No.1 of 2006

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Division - I,
Coimbatore.

... Appellant/4th Respondent

Vs.

1.V.Vasanthan ...1st Respondent/Petitioner
2.S.Mohan
3.N.Mani
4.S.Kalidas

5.New India Assurance Co.Ltd.,
28, R.G.Street, Coimbatore - 641 001.

R4 given up ...Respondents 2 to 5/Respondents 1 to 3 & 5

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 18.06.2003 made in M.C.O.P.No.1012 of 1999 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.I, Coimbatore.

For Appellant : Mr.S.V.Vasanthan Kumar

For R5 : No Appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 18.06.2003 made in M.C.O.P.No.1012 of 1999 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.I, Coimbatore.

2.The case in brief is as follows:

On the fateful day, i.e., on 21.06.1999, the first respondent along with her husband and son, alighted at Coimbatore Railway Station after visiting Tirupathi and engaged an autorickshaw bearing Registration No.MDA 4029 to reach their house at Race Course, Coimbatore and were travelling in the same. At that time, a bus bearing Registration No.TN 38 N 0059

driven by the fourth respondent herein came from the opposite direction in a rash and negligent manner and dashed against the autorickshaw. Due to the said impact, the first respondent, her husband and son were thrown away and they sustained grievous injuries. The first respondent filed a Claim Petition claiming a compensation of Rs.3,00,000/-. On considering the materials available on record, the Tribunal fixed the contributory negligence on the drivers of both the vehicles and quantified the compensation at Rs.1,85,000/- with interest at the rate of 9% per annum from the date of petition and directed the appellant Transport Corporation and the Insurance Company to pay the compensation at 50% each. Challenging the 50% liability fixed on the Transport Corporation as well as the quantum of compensation awarded by the Tribunal, the appellant Transport Corporation has preferred this appeal.

3.The learned counsel for the appellant/Transport Corporation submitted that the Tribunal has erred in concluding that the driver of the appellant/Transport Corporation was also responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and also exorbitant and the same warrants interference at the hands of this Court.

4.Heard the learned counsel appearing for the appellant and perused the materials available on record. There is no appearance on behalf of the fourth respondent/Insurance company. The appellant has not taken any steps to serve notice on the respondent/claimant. However, having regard to the fact that the appeal is of the year 2006, this Court is inclined to proceed with this case on merits.

5.With regard to the finding on negligence, P.W.1/claimant has deposed that on 21.06.1999, she along with her husband and son, was proceeding from the railway station by autorickshaw to her house; at that time, the driver of the bus belonging to appellant/Transport Corporation came in a rash and negligent manner and dashed against the autorickshaw and caused the accident; due to the same, she sustained severe injuries. She has also stated in her evidence that she did not know whether there was negligence on the part of the driver of the autorickshaw in riding the vehicle. As per Ex.P4-rough sketch, the autorickshaw came in the one way passage. Taking into consideration all the aspects, the Tribunal has fixed the contributory negligence on the part of the drivers of both the vehicles i.e., autorickshaw and Transport Corporation Bus and ultimately, directed the Insurance Company and the Transport Corporation to pay the compensation at 50% each. This Court is

not inclined to interfere with the said finding, as the same is based on the oral and documentary evidence adduced by the parties.

6. With regard to quantum of compensation, according to PW1/claimant, in the accident, she suffered head injury and multiple injuries all over the body. Based on Ex.P7 -wound certificate, which established that the claimant suffered three grievous injuries, the Tribunal has fixed a sum of Rs.25,000/- for each injury and accordingly, awarded Rs.75,000/- towards injuries suffered by the claimant, which this Court is not inclined to interfere, as the same is based on the materials and evidence available on record. Further, the Tribunal has awarded a sum of Rs.1,00,000/- towards medical expenses based on Ex.P5/medical bills, which is the actual expenditure incurred for the same and the same warrants no interference. That part, the Tribunal has awarded a sum of Rs.10,000/- towards pain and suffering, which calls for no interference, taking into account the nature of the injuries sustained by the claimant.

7. Thus, affirming the award passed by the Tribunal, this appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant/Transport Corporation is directed to deposit 50% of their award amount with interest and costs, 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 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 (AD-IV)

/True Copy/

Sub Assistant Registrar

To

The Additional District Judge,
Motor Accidents Claims Tribunal,
Fast Track Court No.I, Coimbatore.

+1 cc to M/s.S.V.Vasanth Kumar, Advocate Sr.No. 47436

AKM/20.03.2020/3P-3C /

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