



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.06.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.284 of 2006

The Managing Director
Tamil Nadu State Transport Corporation
Division II Ltd., Chennaimalai Road
Erode.

... Appellant

Vs

1.E.Prasad

2.The Managing Director
Tamil Nadu State Transport Corporation
Salem Division No.I,
No.12, Ramakrishna Road,
Salem.

... Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 09.03.2005 made in MCOP No.209 of 2002 on the file of the Motor Accidents Claims Tribunal and Sub-Court, Sangagiri.

For Appellant : Mr.S.V.Vasanthakumar

For Respondents : Mr.V.Ramesh for R2

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.3,37,000/- towards compensation to the first respondent, due to the injuries suffered by him in a motor vehicle accident.

2.The case in brief, as stated in the claim petition, is as follows:

On the fateful day, ie. on 01.09.2002, the first respondent was travelling in the bus bearing Reg.No.TN-33-N-1615 belonging to the appellant Transport Corporation, from Erode to Salem in the Pallipalayam - Sankari Main Road. At about 4.45 p.m., when the bus reached Thoppukadu, another bus bearing Reg.No.TN-27-N-1294, belonging to the second respondent Transport Corporation, came from the opposite direction in a rash and negligent manner



and both the buses collided with each other. Due to the accident, the first respondent sustained grievous injuries and his right hand was fully amputated. The first respondent / claimant filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.3,37,000/- with interest at the rate of 9% per annum 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 has submitted that the Tribunal ought not to have fixed the entire liability on the appellant Transport Corporation. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.Heard the learned counsel for the appellant and the learned counsel for the second respondent and perused the materials available on record carefully and meticulously.

6.It is seen that II batta with petition due in respect of the first respondent. The appellant Transport Corporation has not taken steps to serve papers to the first respondent, even at this length of time.

7.Even though the first respondent /claimant deposed before the Tribunal that the accident had occurred due to the rash and negligent driving of both the drivers of the buses, on a perusal of Ex.P1- First Information Report, it is seen that the complaint has been given by the claimant against the driver of the bus belonging to the appellant Transport Corporation. Even as per Ex.P4-Charge Sheet, it is seen that the complaint has been given against the driver of the appellant Transport Corporation. Hence, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation, which finding this Court is not inclined to interfere.

8.In respect of the quantum of compensation, the Tribunal has awarded a sum of Rs.1,25,000/- towards loss of earning due to disability, Rs.50,000/- towards pain and suffering, Rs.50,000/- towards Attender Charges, Rs.2,000/- towards transportation, Rs.20,000/- towards medical expenses, Rs.80,000/- towards 80% disability at the rate of Rs.1,000/- per percentage of disability and Rs.10,000/- towards nourishment. In respect of loss of earning during the treatment period, the Tribunal has granted Rs.1,25,000/- only relying upon the evidence of P.W.2-Doctor, who deposed that the claimant cannot



work as before, due to the amputation of his right leg. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above heads and hence the same need not be interfered with by this Court.

WEB COPY

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. 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 being made, the first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

KM

To

1.The Motor Accidents Claims Tribunal
and Sub Court, Sangagiri.

2.The Section Officer,
VR Section, Madras High Court.

+1 cc to M/s.S.V.Vasanthakumar Advocate sr50649

C.M.A.No.284 of 2006

aa03/01/2020