

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2019

CORAM

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.NO.3117 OF 2006

and

M.P. NO. 2 of 2006

Tamilnadu State Transport Corporation Ltd.,
rep. By its Managing Director,
Railway Station Road,
Kumbakonam Town & District Munsif.

...Appellant/1st Respondent

Vs.

1. Muralishankar ...1st Respondent/Petitioner
2. Sivabal ...2nd Respondent/2nd Respondent
(2nd Respondent remained exparte)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and decree made in M.C.O.P. No.69 of 2005 on the file of the Motor Accidents Claims Tribunal (Principal Subordinate Judge) at Nagapattinam dated 10.10.2005.

For Appellant : Mr.M.Krishnamoorthy.

For Respondents : R1 - Not Ready.
R2 - Exparte.

JUDGMENT

Tamilnadu State Transport Corporation Ltd., rep. by its Managing Director, Kumbakonam, has filed this present appeal against the orders passed by the Principal Subordinate Judge, Motor Accidents Claims Tribunal, Nagapattinam, in M.C.O.P. No.69 of 2005.

2. The first respondent / claimant filed the claim petition in M.C.O.P. No. 69 of 2005 under Section 166 of Motor Vehicles Act, seeking compensation of Rs.3,00,000/- for the injuries sustained by him in a road accident that took place on 19.08.2003.

3. According to the first respondent / claimant, on 19.08.2003, when he was travelling as a passenger in a car bearing registration No.TN 49 2797, a speeding bus bearing registration No.TN 49 N 0989 belonging to the present appellant hit the car, as a result of which, he sustained injuries all over his body and that he was immediately rushed to Government Hospital, Needamangalam and subsequently referred to the Government Hospital at Tanjore. It is his further contention that the rash and negligent driving of the driver of the bus bearing registration No.TN 49 N 0989 belonging to the present appellant was the cause of the accident and therefore, they are liable to pay compensation of Rs.3,00,000/- to him.

4. The present appellant contested the claim petition and the learned Principal Subordinate Judge, after analysing the records, awarded a compensation of Rs.1,01,000/- to the first respondent / claimant together with interest at the rate of 9% per annum.

5. Aggrieved over the orders passed by the tribunal, the appellant / Tamilnadu State Transport Corporation Limited, has filed the present appeal.

6. Mr. M. Krishnamoorthy, learned counsel appearing for the appellant would contend that, the tribunal had committed an error in fixing the negligence on the part of the driver of the bus. He would also contend that the award passed by the tribunal is on the higher side.

7. A perusal of the record shows that the First Information Report was registered against the driver of the bus bearing registration No.TN 49 N 0989 belonging to the present appellant. Apart from that, the first respondent/claimant had clearly deposed that the driver of the bus was rash and negligent in driving the bus. No contra evidence was adduced on the side of the present appellant and therefore, the tribunal was right in fixing the negligence on the part of the driver of the bus belonging to the present appellant. As far as the quantum of compensation is concerned, the tribunal has awarded a sum of Rs.1,01,000/- together with interest at the rate of 9% per annum to the first respondent / claimant. A perusal of a copy of the Accident Register (Ex.P2) shows that the first respondent has suffered a femur bone fracture in his left thigh. Dr. Rajagopal (PW.2) has assessed partial permanent disability as 55%. However, the tribunal has fixed the percentage of disability as 25% and awarded a compensation of Rs.81,000/- for partial permanent disability. It is pertinent to point out that the first respondent / claimant was just 27 years old on the date of

accident and P.W.2 has categorically stated that the left leg of the first respondent/ claimant is one centimetre lesser than the right leg. It is also clear from the evidence of P.W.2 that there is a malunion of bones.

8. In the facts and circumstances, the award passed by the tribunal cannot be said to be on the higher side. Therefore, the appeal fails and is therefore dismissed. No costs. Consequently connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

bga
To,

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

Copy to

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

+lcc to Mr.M.Krishnamoorthy, Advocate sr.3850

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