

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.06.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3319 of 2005

Tamil Nadu State Transport Corporation Ltd.,
Rep. by its Managing Director,
Dharmapuri.

[Cause title amended as per
this Court dated 28.09.2005
in C.M.P.No.15770 of 2005] Appellant/Respondent

Vs.

K.Loganathan Respondent/Petitioner

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, against the Judgment and Decree dated 09.08.2004 made in M.C.O.P.No.38 of 1993 on the file of Motor Accidents Claims Tribunal (Additional District Judge), Dharmapuri.

For Appellant : Mr.R.Arunmozhi

Judgment

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 09.08.2004 made in M.C.O.P.No.38 of 1993 on the file of Motor Accidents Claims Tribunal (Additional District Judge), Dharmapuri (for brevity, "the Tribunal").

2.The facts of the case are that the respondent/claimant was a cleaner of the lorry bearing Regn.No.TDT 5189. On 17.10.1992 at about 04.30 a.m., when he was cleaning the glasses of the parked lorry for repairing work, at the road side of Thunikatti Mariamman Temple near Matlampatti in Dharmapuri to Krishnagiri Main Road, the bus bearing Registration TN 29 N 0409 belonging to the appellant Transport Corporation proceeding from Dharmapuri towards Krishnagiri, came rashly and negligently and hit the rear side of the lorry and caused the accident. As a result of the same, the respondent/claimant sustained grievous injuries. Hence, he filed a petition claiming a sum of Rs.2,00,000/- as compensation before the Tribunal, which after considering the oral and documentary evidence, awarded a sum of

Rs.1,15,000/- along with interest at the rate of 9% p.a. from the date of petition. Aggrieved against the same, the appellant Transport Corporation has filed this appeal.

3. According to the learned counsel for the appellant, the driver of the lorry, in which, the respondent/claimant was the cleaner, only invited the accident, while he applied brake suddenly without observing the coming of bus belonging to the appellant Transport Corporation, which hit the backside of the lorry and hence, the appellant Transport Corporation is not liable to pay compensation to the respondent/claimant. With regard to quantum, the learned counsel submitted that the Tribunal erred in awarding a sum of Rs.50,000/- towards future loss of income, which is on the higher side and the same needs to be modified.

4. Heard the learned counsel for the appellant and perused the records. The appellant Transport Corporation has not taken any steps to serve notice on the respondent/claimant, even at this length of time. However, considering the paucity of time, this Court is inclined to proceed with the matter on merits.

5. Before the Tribunal, the respondent/claimant was examined as PW1, who deposed that when he was cleaning the lorry, the driver of the bus belonging to the appellant Transport Corporation hit the rear side of the lorry rashly and negligently, due to which, the accident had occurred. On the contrary, the conductor of the bus, who was examined as RW1, in his evidence, stated that due to sudden application of brake by the driver of the lorry, the accident had occurred and hence, the driver of the bus was not at all responsible for the accident. The Tribunal, taking note of the fact that the driver of the bus, who was the competent person to narrate the manner of accident, was not examined and considering the contents of Ex.P1 -FIR registered against the driver of the bus, has come to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the bus, which finding this Court is not inclined to interfere, as the same is based on the oral and documentary evidence let in by the parties.

6. With regard to quantum of compensation, the Tribunal, considering the evidence viz., Ex.P2 wound certificate, Ex.P3 disability certificate and Ex.P4 X-ray, which were corroborated by PW2 Doctor and taking note of age and monthly income of the respondent/claimant as 22 years and at Rs.1,200/- respectively, has determined Rs.2,000/- towards transportation expenses, Rs.3,000/- towards extra nourishment, Rs.5,000/- towards medical expenses, Rs.20,000/- towards pain and suffering, Rs.35,000/- towards 35% permanent disability and Rs.50,000/- towards future loss of income and thus, awarded the total compensation of

Rs.1,15,000/- to the respondent/claimant. Having regard to the nature of injuries and the extent of disability sustained by the respondent/claimant, the amount so awarded by the Tribunal seems to be fair, just and reasonable and the same cannot be said to be on the higher side at any stretch of imagination. Hence, this Court finds no reason to interfere with the same.

7.In the result, this Civil Miscellaneous Appeal is dismissed by confirming the judgment and decree passed by the Tribunal. The appellant Transport corporation is directed to deposit the entire amount as awarded by the Tribunal along with interest and costs, 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, the Tribunal is directed to transfer the same to the savings bank account of the respondent/claimant through RTGS, within a period of one week. No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

Raja
To

1.The Motor Accidents Claims Tribunal
(Additional District Judge), Dharmapuri.

Copy to

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

+1cc to M/s.R.Arunmozhi Advocate sr47378

C.M.A.No.3319 of 2005

सत्यमेव जयते

rgn(co)
aa12/02/2020

WEB COPY