

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.08.2019

Coram:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

Civil Miscellaneous Appeal No.3384 of 2005 and
C.M.P.No.17117 of 2005

The Managing Director
Tamil Nadu State Transport Corporation Ltd
Bharathipuram
Salem Main Road
Dharmapuri

Appellant / Respondent

Vs

Akkumaran

Respondent / Claimant

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act against the Judgment and Decree dated 30.06.2003 passed by the Motor Accidents Claims Tribunal, Subordinate Court, Krishnagiri in MCOP No.419 of 2001.

For Appellant : Mr.P.Jagadeeswaran

J U D G M E N T

The Civil Miscellaneous Appeal has been preferred by the appellant / Transport Corporation, against the award of Rs.1,02,000/- passed by the Tribunal.

2.The case in brief, is as follows:

On 28.03.2001, at about 8.45 hours, when the respondent/claimant was proceeding in his cycle on Paupparapatty to Dharmapuri main Road, near Muniappan kovil, a TNSTC bus belonging to the appellant, came in a rash and negligent manner and dashed against the claimant, due to which, the claimant sustained grievous injuries all over the body. Hence, the respondent/claimant filed a claim petition before the Tribunal. After an elaborate trial, the Tribunal has awarded a total compensation of Rs.1,02,000/- with interest at the rate of 9% per annum from the date of petition, to the claimant.

3. Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4. Despite ordering notice to the respondent and having been printed his name in the cause list, there is no representation on his behalf. Hence, the appeal is taken up for consideration on merits.

5. Heard the learned counsel for the appellant.

6. The learned counsel for the appellant submitted that the award of the Tribunal is erroneous, contrary to law, weight of evidence and probabilities of the case. The learned counsel further submitted that the Tribunal has erred in holding that the driver of the appellant's bus was responsible for the accident. The learned counsel further submitted that the Tribunal has erred in fixing the disability of the claimant at the rate of 25%; and the award of Rs.1,02,000/- under the various heads is excessive and hence, the same warrants interference by this Court.

7. In order to verify the negligence on the part of the driver of the Corporation bus, the examination of the award passed by the Tribunal is necessary. A perusal thereof would go to show that Ex.P.1 First Information Report discloses that the accident had occurred only due to the rash and negligent driving of the bus driver. Further, the Tribunal has fastened the liability on the part of the driver of the bus after scrutinizing the evidence of PW.1/Claimant and Ex.P.1 First Information Report. Though the driver of the bus has been examined on the side of the appellant Transport Corporation, by taking a stand that the accident had happened only due to the negligence of the claimant, in the absence of any documentary proof thereof, the Tribunal came to the conclusion that the accident occurred only due to the rash and negligent driving of the driver of bus, which this Court is not inclined to interfere with.

8. Regarding the quantum of compensation, the Tribunal by relying upon the evidence of doctor PW 2, Ex.P.2 Wound Certificate and Ex.P.3 Disability Certificate, came to the conclusion that the claimant had sustained 25% disability, due to the injuries sustained by him in the accident. Even though the claimant has stated in his affidavit that he was earning a monthly salary of Rs.4,000/-, by doing milk business, no oral or documentary evidence has been adduced before the Tribunal.

Hence, the Tribunal, considering the age of the claimant, fixed his monthly income as Rs.2,100/- and arrived at Rs.69,300/- as compensation towards loss of earning due to disability. Further, the Tribunal taking note of the nature of injuries sustained by the claimant has awarded a sum of Rs.25,000/- towards grievous injuries sustained by him, a sum of Rs.5,000/- towards pain and suffering, Rs.3,000/- towards extra nourishment and totalling the compensation at Rs.1,02,000/-. This Court is of the opinion that the amounts awarded by the Tribunal under the above heads are just and reasonable and hence, the same are confirmed.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. 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 Tribunal is directed to transfer the deposited amount, to the Savings Bank Account of the claimant / Respondent herein, through RTGS, within one week thereafter.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

vrn

To

1. The Motor Accident Claims Tribunal/ Subordinate Court
Krishnagiri

2. The Section Officer
V.R.Section
Madras High Court
Chennai 104

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