

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2111 of 2008

and

M.P.No.1 of 2008

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Villupuram Division - II,
Vellore. ... Appellant /Respondent

Vs.

Latha .. Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 04.12.2006 made in M.C.O.P.No.58 of 2004 on the file of the Motor Accident Claims Tribunal, Principal Sub-Court, Cuddalore.

For Appellant : Mr.N.Anand

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/Transport Corporation against the award of a sum of Rs.1,38,780/- to the respondent/claimant for the injuries sustained by her in a motor vehicle accident.

2.The facts of the case are that on 12.08.2003 about 04.15 a.m., while the respondent/claimant was travelling in appellant / Transport Corporation Bus bearing Regn.No.TN-23-N-1257, the driver of the said bus drove the same at a great speed, in a rash and negligent manner near Thiruvamur Bridge, Thiruvamur. As a result of the same, the bus went out of control and got capsized and thereby, caused the accident. Due to the said impact, the respondent sustained grievous injuries, for which, she filed a claim petition claiming a sum of Rs.1,38,780/- as compensation.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident had occurred due to

the rash and negligent driving of the driver of the bus and hence, directed the appellant/Transport Corporation to pay a sum of Rs.1,38,780/- as compensation to the respondent/claimant. Aggrieved over the same, the appellant/Transport Corporation has come out with the present appeal.

4.The learned counsel for the appellant/Transport Corporation has not disputed the liability of the Transport Corporation to pay compensation to the respondent/claimant. However, he submitted that the compensation of Rs.1,38,780/- awarded by the Tribunal is excessive and exorbitant for the injuries sustained by the respondent/claimant.

5.Heard the learned counsel for the appellant and perused the records carefully and meticulously.

6.The Record of proceedings would disclose that batta with petition is due in respect of the respondent and the appellant/Transport Corporation has not taken proper steps to serve papers to the respondent, even at this length of time. However, considering the fact that the appeal is of the year 2008, this Court is inclined to proceed with the appeal on merits.

7.The respondent/claimant deposed before the Tribunal that the driver of the bus drove it in a rash and negligent manner and caused the accident and due to the same, she sustained grievous injuries. The First Information Report was registered against the driver of the Bus. Taking note of the materials and evidence available on record, 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.As regards the quantum of compensation awarded by the Tribunal, PW2/respondent/claimant deposed that she was earning a sum of Rs.4,500/- per month by doing as a milk vendor; and due to the injuries sustained in the accident, she could not do his work as before. But, he did not let in any evidence to prove the same. Hence, the Tribunal has fixed the income of the injured at Rs.2,000/- per month. P.W.6/Doctor deposed that the respondent/claimant sustained grievous injuries on the overhead, left shoulder and pelvis, fracture in L1 (Lumbar Vertebrae); and multiple injuries all over the body. The doctor assessed the disability of the respondent/claimant at 30% and issued Ex.A23 disability certificate. However, the Tribunal has taken the disability of the claimant at 30%. Taking note of the age of the injured, the Tribunal has adopted the multiplier of '18' and determined the loss of income at Rs.1,29,600/- (Rs.2,000/- X 12 X 18 X 30/100), which is fair and reasonable and hence, the same

is hereby confirmed. The Tribunal has also awarded Rs.5,000/- towards pain and suffering and Rs.4,180/- towards medical bills as per Ex.A9. The amounts so awarded by the Tribunal under the above heads are just and reasonable and hence, the same need not be interfered with by this Court.

9.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant/Transport Corporation is directed to deposit the award amount 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 being made, the Tribunal shall transfer the same to the savings bank account of the respondent/claimant through RTGS, within a period of one week thereafter.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

gbi/rk

To

1.The Principal Sub-Judge,
Motor Accident Claims Tribunal,
Cuddalore.

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

+1cc to Mr.N.Anand, Advocate, S.R.No. 69891

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