

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3425 of 2005
and C.M.P.No.17389 of 2005

The Managing Director
Tamil Nadu State Transport Corporation
Division No.II, Ltd.
Chennimalai Road, Erode. ... Appellant /2nd Respondent

Vs

1.T.Paranjothi ... Petitioner/Claimant
2.N.Palanichamy-Driver
(no relief claimed against 2nd respondent)
...2nd Respondent/1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 29.04.2005 made in MCOP No.526 of 2003 on the file of the Motor Accidents Claims Tribunal and Subordinate Court, Tiruppur.

For Appellant : Mr.S.V.Vasanthakumar

For Respondents : Ms.P.Indumathi for R1

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.5,30,000/- towards compensation to the first respondent, due to the injuries suffered by him in a motor vehicle accident.

2.The case in brief, is as follows:

The first respondent herein was running a Puncture Shop in the Trichy Road, Sulur. On the fateful day, ie. on 19.01.2003, the first respondent / claimant was dismantling the Stepney wheel of the van bearing Reg.No.TN-45-X-5819 at about 5.30 a.m. At that time, the bus bearing Reg.No.TN-33-N-1929 belonging to the appellant Transport Corporation, came from East to West direction in a rash and negligent manner and hit the claimant's left hand abruptly in an unexpected manner. The van which the

claimant was repairing, was also forced to run about 30 feet forward, due to the said impact. The claimant sustained crush injuries on the left hand and his left hand was totally amputated thereafter. He also sustained other injuries all over the body and fracture of ribs. The claimant filed a claim petition before the Tribunal, claiming a sum of Rs.12,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.5,30,000/- 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 has erred in holding that the appellant's bus driver was rash and negligent and was responsible for the accident, since the injured was repairing the vehicle in the middle of the road, without any caution board or signal. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.The learned counsel for the first respondent / claimant has submitted that the Tribunal has correctly considered the materials and evidence and has correctly awarded the compensation which is just, fair and reasonable and hence the same does not require any interference in the hands of this Court.

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

7.Ex.P1 is the First Information Report filed against the driver of the bus, in which it is stated that the driver of the bus dashed the bus against the back side of the van. In this regard, the Tribunal has observed that once the driver of the bus visualises a damaged vehicle in the road, naturally he must slow down the bus to know about the incident. But, the driver was not able to control the bus on seeing the stationed van, since he was proceeding the bus at an uncontrollable speed. Hence, the Tribunal came to the conclusion that had the driver of the bus drove it carefully, the accident would have been avoided and accordingly, held 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. This Court is not inclined to interfere with the said factual finding arrived at by the Tribunal.

8. With regard to compensation, it was put forth before the Tribunal on the side of the claimant that the claimant was earning a sum of Rs.6,000/- per month by way of running a Vulcanising Shop. Ex.P8 is the Bill Book. Considering the materials on record, the Tribunal came to the conclusion that the claimant would have earned not less than Rs.3,000/- per month and accordingly calculated the annual income at Rs.36,000/-, adopted the multiplier of 18 and arrived at the sum of Rs.6,48,000/- and thereafter awarded a sum of Rs.3,88,800/- towards loss of income due to 60% disability. The Tribunal has correctly assessed the income of the injured, adopted the correct multiplier and arrived at Rs.3,88,800/- towards loss of income due to 60% disability. The Tribunal has also awarded a sum of Rs.10,000/- towards pain and suffering, Rs.1,000/- towards extra nourishment, Rs.500/- towards transportation expenses, Rs.20,000/- towards future loss of social prestige, Rs.10,000/- towards loss of income during the treatment period and Rs.1,00,000/- towards medical expenses, relying upon Ex.P6-Medical Bill Series, thus awarding a total compensation of Rs.5,30,300/-, rounded off to Rs.5,30,000/-. 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.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10. It is submitted that 75% of the compensation amount had already been deposited. The appellant Transport Corporation is directed to deposit the balance award amount with interest, 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 entire deposited amount, on making proper application before the Tribunal.

Sd/-
सत्यमेव जयते

Assistant Registrar
(Spl Cell-Retd Judges)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Motor Accidents Claims Tribunal
and Subordinate Court, Tiruppur.

Copy to: The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.S.Gunalan, Advocate SR.69115

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SPD(CO)
CB(04/02/2020)



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