

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2421 of 2008

and M.P.No.1 of 2008

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division-II,
Chennimalai Road,
Erode.

... Appellant/Respondent

Vs.

Venkatesh

... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the Decree and Judgment in M.A.C.T.O.P.No.1216 of 2004 dated 18.07.2007 on the file of the Motor Accident Claims Tribunal cum Additional District Court (Fast Track Court No.5), Coimbatore at Tiruppur.

For Appellant : Mr.N.Anand
For Respondent : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the judgment and decree dated 18.07.2007 passed by the Motor Accident Claims Tribunal cum Additional District Court (Fast Track Court No.5), Coimbatore at Tiruppur, in M.A.C.T.O.P.No.1216 of 2004.

2.The case of the respondent / claimant is that on 28.08.2004 at 22.45 hours, the respondent / claimant was travelling in the bus bearing Reg.No.TN-33-N- 1155 belonging to the appellant Transport Corporation, on the Sakthi - Mettupalayam Main Road. When the bus reached near Sirumugai Bannari Amman Hospital, due to the rash and negligent driving of the driver of the bus, the bus fell into a ditch and turned turtle. Due to the impact, the respondent / claimant suffered fractures on his head, left leg and left knee. The respondent / claimant filed a claim petition before the Tribunal, claiming a sum of Rs.5,00,000/- as compensation. Considering the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.1,33,000/- with interest at the rate of 9% per annum from the date of petition. The details of the compensation are as under:

HEADS	Amount (Rs.)
Loss of income	1,15,200
Extra nourishment	5,000
Loss of earning during the treatment period	2,800
Pain and suffering	10,000
Total	1,33,000

3.The learned counsel for the appellant Transport Corporation 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. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

4.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

5.Though this appeal was admitted way back in the year 2008, the appellant has not taken proper steps to serve notice on the other side. However, due to efflux of time, this appeal is taken up for final disposal on merits.

6.The respondent / claimant has been examined as P.W.1 before the Tribunal. He deposed that the accident had occurred only due to the rash and negligent driving of the driver of the appellant's bus and the same corroborates with Ex.P1-First Information Report. The Tribunal has taken note of the same while fixing the negligence on the part of the bus driver. The Tribunal has also considered the Motor Vehicle Inspector's Report, from which it is seen that there was no damage or fault caused to the vehicle, prior to the accident. Further, excepting the evidence of the driver of the bus, that too without denying the manner of accident, no independent witness was examined on the side of the Transport Corporation to disprove the version of P.W.1. In the absence of any contra evidence against the claimant herein, the Tribunal has come to the conclusion that the accident had happened only due to the rash and negligent driving of the bus by its driver. This Court finds absolutely no reason to interfere with such findings, since the same have been rendered on facts. Hence, the same are confirmed as such.

7.As far as the quantum of compensation is concerned, the Tribunal has fixed the monthly income of the claimant at Rs.3,000/- as mason, adopted the multiplier of 16 and arrived at the sum of Rs.1,15,200/- towards loss of income for 20% disability fixed by the Tribunal. The Tribunal has also awarded a sum of Rs.5,000/- towards extra nourishment, Rs.2,800/- towards loss of earning during the treatment period and Rs.10,000/- towards pain and suffering. The Tribunal has rightly considered the materials and evidence, correctly assessed the income of the injured, adopted the correct multiplier and arrived at the compensation towards loss of income. The amounts awarded by the Tribunal towards other heads are also very reasonable and hence the same are confirmed.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Transport Corporation is directed to deposit the compensation amount, along with interest and costs, as awarded by the Claims Tribunal, 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 respondent / claimant is permitted to withdraw the same on making proper application before the Tribunal. Consequently, connected MP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ah/srk

To

1.The Motor Accident Claims Tribunal cum
Additional District Court (Fast Track Court No.5),
Coimbatore at Tiruppur.

2.The Section Officer,
V.R. Section
High Court, Madras.

+1 cc to Mr.N.Anand Advocate sr62895

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