

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3708 of 2006
and M.P.No.1 of 2006

The Managing Director
Tamil Nadu State Transport Corporation Limited
Div.I, Villupuram. ... Appellant/Respondent

Vs

Elumalai ... Respondent/Petitioner

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 29.11.2005 made in MACTOP No.95 of 2005 on the file of the Motor Accidents Claims Tribunal, Fast Track Court No.1, Tindivanam.

For Appellant : Mr.S.V.Vasanthakumar

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.3,17,000/- towards compensation to the respondent, due to the injuries suffered by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 06.09.2000, the respondent was travelling as a pillion rider in the TVS-50 two-wheeler bearing Reg.No.TDV-7889 from Mozhiyanur Village to Alagramam Village, proceeding towards Thenputhur Village on the Mozhiyanur - Thenputhur Road. At about 08.10 hours on that day, when he reached near Ganesan land, the bus bearing Reg.No.TN-32-N-0315 belonging to the appellant Transport Corporation came in a rash and negligent manner at high speed in the same direction and dashed behind the vehicle in which the respondent was travelling. Due to the said impact, the respondent sustained grievous injuries. The respondent/ claimant filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.3,17,000/- with interest at the rate of 7.5% 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. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

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

6.Notice regarding admission was ordered by this Court way back on 10.01.2007. The appellant Transport Corporation has not filed Affidavit of Service for having served private notice on the respondent, even at this length of time.

7.It was deposed before the Tribunal by the respondent / claimant who has been examined as P.W.1, that the driver of the bus drove it in a rash and negligent manner and dashed against the TVS-50 two-wheeler in which he was travelling as a pillion rider and due to the same, he sustained grievous injuries. The driver of the bus was examined as R.W.1. He deposed before the Tribunal that when the said two-wheeler tried to overtake the bus in the left side and proceeded towards the road, they fell down. Ex.P6 is the judgment of the Criminal Court in respect of this accident, in which the Judicial Magistrate No.2, Tindivanam, has imposed punishment and fine on 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.In respect of the quantum of compensation, the Tribunal awarded a sum of Rs.53,000/- towards the permanent disability of 53% relying upon the Disability Certificate issued by P.W.2-Doctor, Rs.2,000/- towards transport expenses, Rs.2,000/- towards extra nourishment, Rs.30,000/- towards loss of income during the treatment period, Rs.15,000/- towards pain and suffering and Rs.60,000/- towards loss of earning capacity. The Tribunal has also awarded a sum of Rs.1,55,000/- towards medical expenses relying upon Ex.P15-Medical Bill Series, which is an actual expenditure. 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. The appellant Transport Corporation is directed to deposit the award amount with interest, as ordered by the Tribunal, 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 respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar (Admn-III)

//True copy//

Sub Assistant Registrar

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To

- 1.The Fast Track Court No.1,
The Motor Accidents Claims Tribunal
Fast Track Court No.1,
Tindivanam.
- 2.The Section Officer,
VR Section, Madras High Court.

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BR(CO)
GMY(10/02/2020)

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