

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1103 of 2010 and
M.P.No.1 of 2010

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division-2, Rangapuram,
Vellore-9.

.... Appellant/2nd Respondent

Vs.

....1st Respondent

1.Palani
2.M.Murthy

..... 2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 13.07.2009 made in MCOP No.164 of 2004 on the file of the Motor Accident Claims Tribunal, Sub Judge, Tiruvannamalai.

For Appellant : Mr.S.V.Vasanthakumar

J U D G M E N T

This appeal is preferred by the Transport Corporation against the award of a sum of Rs.1,35,000/- towards compensation to the first respondent/claimant due to the injuries sustained by him in a motor vehicle accident.

2. The case in brief, is as follows:-

On the fateful day, i.e., on 15.03.2004, at about 10.00 a.m., when the 1st respondent/claimant was riding his TVS 50 moped bearing Registration No.TN.23-1421 towards Kalavai between Chittanthangal and Pali Cross Road, a bus bearing Registration No.TN.23-849 belonging to the appellant Transport Corporation came in a rash and negligent manner and dashed against the 1st respondent and caused the accident. Due to the same, the 1st respondent sustained grievous injuries, for which, he filed a claim petition seeking compensation of Rs.3,00,000/-. On

consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,35,000/- 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/Transport Corporation submitted that the appellant /Transport Corporation has questioned the award of the Tribunal only on quantum. He further submitted that the compensation awarded by the Tribunal is excessive and exorbitant and the same has to be reduced.

5. Heard the learned counsel for the Appellant/Transport Corporation and perused the materials available on record carefully and meticulously.

6. Though notice was ordered way back in the year 2010, the Appellant/Transport Corporation has not taken steps to serve papers on the respondents, even at this length of time. However, considering the paucity of time, this Court is inclined to dispose of this appeal, on merits.

7. There is no dispute with regard to the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus and fixed the liability on the Transport Corporation.

8. As regards the quantum of compensation awarded by the Tribunal, PW.1/first respondent/claimant deposed in his evidence that due to the accident, he sustained multiple injuries in all over his body; initially, he was taken treatment at Cheyyar Government Hospital from 15.03.2004 to 24.03.2004 i.e., 10 days and thereafter, at private hospital. PW.2 /Doctor asserted that the first respondent/claimant sustained bone fracture in left clavicle and humerus fracture in left hand, due to which, the movement of the left hand was restricted and as a result of the same, he finds it difficult to do hard work and lift heavy object. The doctor issued Ex.P6 disability certificate, as per which, the first respondent/claimant sustained 35% towards clavicle fracture + 15% towards fracture in right leg patella. Ex.P4 is wound certificate. As per Ex.P3 discharge summary, the first respondent/claimant took treatment in Cheyyar Government Hospital, as inpatient from 15.03.2004 to 24.03.2004 for his bone fractures. Considering those oral and documentary evidence adduced by the first respondent/claimant, the Tribunal has rightly awarded Rs.1,00,000/- towards disability (Rs.2,000/- per

disability for 50%), which is fair, just and reasonable and the same need not be interfered with by this Court.

9. That apart, the Tribunal has awarded Rs.20,000/- towards pain and suffering, Rs.4,000/- towards Transportation, Rs.1,000/- towards attender Charges, and Rs.10,000/- towards damages to vehicle, which this Court is not inclined to interfere, as the same are fair and reasonable, taking note of the nature of the injuries sustained and the period of treatment undertaken by the first respondent/claimant.

10. In view of the above discussions, this appeal deserves to be dismissed as devoid of merits. Accordingly, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The connected miscellaneous petition is closed.

11. The Appellant / Transport Corporation is directed to deposit the entire compensation amount, along with interests 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 Tribunal is directed to transfer the award amount to the Savings Bank Account of the claimant / injured / first respondent herein, within one week thereafter, through RTGS.

Sd/-

Assistant Registrar
(Spl cell-Retd Judges)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Sub Judge, Tiruvannamalai.

C.M.A.No.1103 of 2010 and
M.P.No.1 of 2010

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