

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.1279 of 2009 and

M.P.No.1 of 2009

The Managing Director,
Karnataka State Transport
Central Office, K.H. Road,
Bangalore.

... Appellant/ Respondent

-Vs-

M. Pugazhendhi

..Respondent/ Claimant

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to set aside the decree and Judgment passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate (the Additional District Court & Special Court (Essential Commodities Act), Salem made in M.C.O.P.No. 1643 of 2002 dated 04.04.2006 and allow the Civil Miscellaneous Appeal.

For Appellant : Mr.S.V.Vasanth Kumar

For Respondent : Mr.N. Manokaran

J U D G M E N T

This appeal has been filed to set aside the decree and Judgment passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate (the Additional District Court & Special Court (Essential Commodities Act), Salem and made in M.C.O.P.No. 1643 of 2002 dated 04.04.2006

2. On 14.11.2001 at about 3:00 p.m, when the respondent herein was travelling in a auto bearing registration No.T-N-27-W-4624, the driver of the appellant/bus bearing Registration No.KA-16-F-O, without controlling speed and without observing any traffic rules, dashed the auto. In the result the respondent

was thrown out from the auto and sustained grievous injuries and was taken to Government Hospital, Salem and for better treatment he was shifted to Ganga Hospital, Coimbatore. Hence, the respondent herein has filed M.C.O.P.No. 1643 of 2002, before the Motor Accident Claims Tribunal, Chief Judicial Magistrate (the Additional District Court & Special Court (Essential Commodities Act), Salem, seeking compensation for a sum of Rs.20,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.5,05,000/- payable with interest at the rate of 7.5% per annum.

3. Challenging the same as excessive and disproportionate, the appellant has filed this appeal.

4. Heard the arguments of counsel for the appellant and perused the materials available on record. Though notice was ordered to the respondents, the same is yet to be completed for service.

5. As far as the award of compensation is concerned, the Tribunal has applied its mind and awarded compensation properly, which do not warrant interference by this Court.

6. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has awarded a just and fair compensation, which need not be interfered with by this Court in this appeal and the quantum of compensation assessed by the Tribunal, cannot be said to be improper. Since, the Tribunal is applied its mind properly and granted the award with the correct head which is well considered order.

7. In the result,

(a) this appeal is dismissed and the Judgment and Decree dated 04.04.2009 and made in M.C.O.P.No. 1643 of 2002, on the file of Motor Vehicles Accidents Claims Tribunal, Chief Judicial Magistrate (the Additional District Court & Special Court (Essential Commodities Act), Salem, is confirmed.

(b) the appellant/Transport Corporation company is directed to deposit amount as awarded by the Tribunal with interest at the rate of 7.5%, less the amount already deposited, if any, within a period of 8 weeks from the date of receipt of copy of this Judgment.

(c) On such deposit, the petitioner/claimant is are permitted to withdraw the amount awarded as above by filing proper application before the Tribunal.

(e) There will be no order as to costs.

(f) Consequently, connected miscellaneous petition is closed.

smn

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

To
The Motor Accident Claims,
Chief Judicial Magistrate,
(Additional District Court of Special Court),
Essential Commodities Act,
Salem.

Copy to:-

The Section Officer,
V.R.Section,
High Court, Madras - 104.

+1cc to Mr.S.V.Vasantha Kumar, Advocate, SR.No.13538/19

+1cc to Mr.N.Manoharan, Advocate, SR.No.13768/19

C.M.A. No.1279 of 2009
and
M.P.No.1 of 2009

Kak (18/07/2019)

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