

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3322 of 2008

and

M.P.No.1 of 2008

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Villupuram. ... Appellant /Respondent

Vs.

M.Kumar ... Respondent/Appellant

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 26.07.2005 made in M.C.O.P.No.646 of 2002 on the file of the Motor Accident Claims Tribunal, Fast Track Court No.1, Tindivanam.

For Appellant : Mr.N.Anand

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 26.07.2005 passed by the Motor Accident Claims Tribunal, Fast Track Court No.1, Tindivanam, in M.C.O.P.No.646 of 2002.

2.The respondent filed a claim petition, claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 24.04.2002, stating that the accident had occurred due to the rash and negligent driving of the driver of the bus bearing Regn.No.TN32 N1478 belonging to the appellant Transport Corporation.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident had happened only due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation and directed the appellant-Transport Corporation to pay a total compensation of Rs.57,000/- with interest at 7.5%pa from the date of petition to the respondent/claimant. Aggrieved over the same, the

appellant/Transport Corporation has come out with the present appeal.

4.The learned counsel appearing for the appellant-Transport Corporation contended that the respondent/claimant, while riding his bicycle in the mud road, lost his control and dashed against the bus and thereby, he himself invited the accident, whereas, the Tribunal erred in holding that the driver of the bus belonging to the appellant Transport Corporation was responsible for the accident. He further submitted that compensation awarded by the Tribunal is excessive and exorbitant.

5.Heard the learned counsel appearing for the appellant and perused the materials available on record. 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 paucity of time, this appeal is taken up for final disposal on merits.

6.On a careful reading of the award, it could be seen that the respondent examined himself as P.W.1 and deposed the manner in which the accident occurred. The testimony of the respondent/claimant was corroborated by Ex.P1 F.I.R., which was registered against the driver of the bus. Though the driver of the bus was examined as R.W.1 and through him, Ex.R1 criminal court judgment acquitting him from the charges, was marked, the Tribunal, taking note of the contents made in Ex.P1 -F.I.R, which was registered based on the complaint lodged by one Elumalai, who was riding another bicycle along with the respondent, has rightly come to the conclusion that the accident occurred due to the rash and negligent driving by the driver of the appellant bus, which finding this Court is not inclined to interfere.

7.As far as quantum of compensation is concerned, the Tribunal considering the evidence of P.W.1/claimant and P.W.2/Doctor and Exs.P2 and P3-discharge slips of Pondicherry Government Hospital, Ex.P4 -wound certificate and Ex.P5-X ray, has awarded Rs.18,000/- towards 18% permanent disability, Rs.4,000/- towards loss of income, Rs.2,000/- towards transport charges, Rs.3,000/- towards extra nourishment, Rs.5,000/- towards pain and suffering and Rs.25,000/- towards loss of earning capacity, which, in the opinion of this Court, are fair, just and reasonable and hence, the same need not be interfered.

8.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant-Transport Corporation is directed to deposit the entire award amount along with interest and costs, 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, the respondent is permitted to withdraw the same, after adjusting the amount already withdrawn, if any, on making proper application.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

gbi/rk

To

1.The Motor Accident Claims Tribunal,
Fast Track Court No.1,
Tindivanam.

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

+1cc to Mr.N.Anand, Advocate, S.R.No. 55077

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