

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

CIVIL MISCELLANEOUS APPEAL NO.1312 OF 2009

AND

M.P.NO.1 OF 2009

The Managing Director
Tamilnadu State Transport Corporation
Villupuram

... Appellant/Respondent

Vs

Jeeva

... Respondent/Claimant

PRAYER:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act against the Judgment and Decree dated 22.01.2008 passed by the Motor Accidents Claims Tribunal, Additional District Court (Fast Track Court No.5), Chengalpet at Thiruvallur, in MCOP No.784 of 2005.

For Appellant : Mr.N.Anand

For Respondent : Mr.U.M.Ravichandran

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/Transport Corporation as against the award passed by the Tribunal.

2. The Respondent/claimant, who was aged 29, a share auto driver earning a monthly salary of Rs.4,500/- met with an accident on 18.06.2005 at about 11.30 am, when he was driving his share auto bearing Reg.No.TN 02 M 6611, near Echampakkam, a State Transport Corporation bus bearing Reg.No. TN 32 N 2022, driven by its driver in a rash and negligent manner dashed against the share Auto, due to which, the claimant sustained injuries. Stating that the accident had happened only due to the rash and negligent driving of the driver of the corporation bus, the claimant has filed a claim petition before the Tribunal and the Tribunal based on the materials available on record has awarded a sum of Rs.60,000/- as compensation.

3. Heard both sides.

4. The learned counsel for the appellant Transport Corporation submitted that the Tribunal has failed to consider the specific plea of the Transport Corporation that the share auto only went in a rash and negligent manner in front of the appellant corporation bus and thus resulting in the accident. The learned counsel further submitted that the Tribunal ought to have dismissed the claim petition for not impleading the insurance company of the share auto. It is submitted that the award passed by the Tribunal under the various heads are excessive and exorbitant.

5. The learned counsel appearing for the respondent herein/claimant submitted that the Tribunal has rightly held that the accident had happened only due to the rash and negligent driving of the driver of the corporation bus and fastened the liability on the appellant herein. Further, the learned counsel submitted that based on the nature of injuries sustained by the claimant, the Tribunal has awarded a reasonable compensation, in which no interference is required.

6. A perusal of the award would go to show that the Tribunal has relied upon the evidence of PWS 1 & 2 and Ex.P.1 First Information Report. It is pertinent to note that the evidence of PW 1 corroborates the contents of First Information Report. Though, the driver of the corporation bus/RW1 has deposed before the Tribunal that, the share auto driver only attempted to turn his auto suddenly, when the bus was stationary, due to which, the accident had happened, but in order to substantiate the same, no documentary proof has been adduced on their side. Hence, the Tribunal has concluded that the accident had happened only due to the rash and negligent driving of the driver of the Transport Corporation bus, which in the opinion of this Court is perfectly justified, as there was no documentary proof rebutting the stand of the claimant.

7. As far as the quantum of compensation awarded by the Tribunal is concerned, the Tribunal has taken into consideration PW 2 doctor, who has examined the claimant on 10.11.2007 and opined that the claimant sustained fibrosis of muscles and the abduction of right wrist restricted to 10 degrees, he is unable to lift heavy articles and issued Disability Certificate at 30% to the claimant. Further, the Tribunal has taken into consideration Exs.P.3 to 6 and awarded a sum of Rs.25,000/- towards injuries, Rs.5,000/- towards treatment and other expenses, Rs.20,000/- towards pain and sufferings and Rs.10,000/- towards future medical expenses, totalling to Rs.60,000/-, which in the opinion of this Court is just and reasonable.

8. Further, it is borne out from records that the accident had taken place in the year 2005, the petition was filed during 2005, Judgment was passed in the year 2008, appeal was filed during 2009 itself and the Judgment in the appeal is being pronounced only now, i.e 2019. Hence, after such a long period, it may not be proper for this Court to interfere with the quantum of compensation awarded by the Tribunal, especially for the reason that when the prices are escalated manifold and there is a reduction in the value of money. Having regard to the lapse of time also, the award of compensation quantified by the Tribunal has to be confirmed.

9. In the result, upholding the award of the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant/Transport Corporation shall 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 deposited amount to the Savings Bank Account of the claimant forthwith, through RTGS. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vrn

To

1. The Motor Accident Claims Tribunal/
Additional District Court (Fast Track Court No.5)
Chengalpet at Thiruvallur
2. The Section Officer,
V.R.Section, Madras High Court
Chennai 104.

+1cc to Mr.U.M.Ravichandran, Advocate, S.R.No.76450

CMA.No.1312 of 2009 and
M.P.No.1 of 2009

GP(CO)
CS/08/06/2020