

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.3354 OF 2008

AND

M.P.NO.1 OF 2010 IN CROSS OBJ.SR.NO.2382 OF 2010

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division III Kancheepuram. Appellant

Vs.

S.Premalatha Respondent

Prayer:

Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the award made in MCOP.No.1750 of 2003 dated 31.03.2008 on the file of the Motor Vehicles Accident Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Mr.K.J.Sivakumar

For Respondent : Mr.A.A.Venkatesan

J U D G M E N T

This appeal is filed by the Transport Corporation as against the compensation of Rs.84,676/- awarded by the Tribunal in MCOP.No.1750 of 2003. Being dissatisfied with the quantum so determined by the Tribunal, the claimant has filed a cross objection with a delay of 382 days in filing the same, seeking enhancement.

2.The case in brief is as follows:

On 31.10.2001 at about 1.00 p.m., when the claimant was travelling as a passenger in the bus bearing Registration No.TN 21 N 0207 belonging to the appellant Transport Corporation from Soonambedu to Chennai on the Irumbuliyur Over Bridge, the front left side tyre of the bus got burst, due to which the bus fell down from the bridge. As a result of the same, the claimant sustained grievous injuries. Claiming a compensation of Rs.2,50,000/-, she filed a claim petition. Considering the materials and evidence available on record, the Tribunal has

awarded a total compensation of Rs.84,676/- with interest at the rate of 12% per annum from the date of petition. Aggrieved over the same, the Transport Corporation and the claimant have filed the respective appeal and cross objection with a delay petition before this Court.

3.The learned counsel for the appellant Transport Corporation 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.

4.The learned counsel appearing for the respondent/claimant/cross objector has submitted that considering the nature of the injuries sustained by the claimant/cross objector, the compensation awarded by the Tribunal is inadequate and hence, the same has to be enhanced substantially.

5.This Court has considered the said submissions of the learned counsel appearing on both sides and perused the materials available on record.

6.The respondent examined herself as P.W.1 before the Tribunal. She deposed that the bus driver drove the bus in a rash and negligent manner and suddenly the left front wheel tyre of the bus got burst and as a result, the bus fell down from the over bridge and the accident had occurred. It is also seen that First Information Report has been filed against the bus driver and the same was marked as Ex.P10. Even though it was put forth on the side of the Transport Corporation before the Tribunal that the incident is an act of God and no negligence or rashness of the driver is involved in the accident, the Tribunal held that the driver of the bus ought to have driven the bus slowly and controlled it. The Tribunal has also observed that the bus has not been maintained properly. The tyre burst has occurred on account of the fact that the vehicle was not in a road worthy condition. Had the vehicle been in a road-worthy condition, the accident would have been averted. In the circumstances, the Tribunal came to the conclusion that the accident had occurred on account of the negligence of the bus driver in not keeping the bus in a road-worthy condition. This Court is not inclined to interfere with the said factual finding arrived at by the Tribunal.

7.As far as the quantum of compensation, the Tribunal, based upon the documents produced, has awarded compensation under the heads of medical expenses, permanent disability, transportation expenses, extra nourishment, damage to cloths and loss of earning during the treatment period and ultimately assessed the

total compensation at Rs.84,676/-. The quantification arrived by the Tribunal is based on the weight of evidence, conventional methodology and settled principles of law. Hence, the compensation awarded by the Tribunal at Rs.84,676/- with interest at the rate of 12% per annum from the date of petition, is confirmed.

8. In such view of the matter, there is no merit in the appeal as well as in the Cross objection. Accordingly, the Civil Miscellaneous Appeal and the delay in filing the cross objection are dismissed. Consequently, the cross objection stands rejected at SR stage itself. No costs. The appellant/Transport Corporation is directed to deposit the compensation amount, along with interest 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 respondent/claimant/cross objector is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-
Assistant Registrar(MDU)

//True Copy//

Sub Assistant Registrar

ah/srk

To

1. The Judge, Motor Vehicles Accident Claims Tribunal and III Court of Small Causes, Chennai.
2. The Section Officer,
V.R. Section
High Court, Madras.

+lcc to Mr.A.A.Venkatesan, Advocate, S.R.No.62991

+lcc to Mr.K.J.Sivakumar, Advocate, S.R.No.62641

C.M.A.No.3354 of 2008
and M.P.No.1 of 2010 in
Cross Obj.SR.No.2382 of 2010

VSNII(CO)
CS/11/12/2020