

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2019

Coram:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

Civil Miscellaneous Appeal No.3462 of 2008 and
M.P.No.1 of 2008

The Managing Director
Tamilnadu State Transport Corporation Ltd
Villupuram Division II
Rangapuram
Vellore

... Appellant /Respondent

Vs

R.Gopal

... Respondent/Claimant

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act against the Judgment and Decree dated 19.12.2007 passed by the Motor Accidents Claims Tribunal, Arani in MCOP No.148 of 2003.

For Appellant : Mr.N. Anand

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 met with an accident on 21.07.2002 at about 6.00 pm, while he was riding his bicycle in Vellore to Thorappadi Road, a Corporation bus bearing Reg.No.TN 23 N 833 belonging to the appellant, came in a rash and negligent manner hit the claimant, due to which, he sustained grievous injuries. Stating that the accident had happened only due to the rash and negligent driving of the driver of the 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.1,63,600/- as compensation.

3. Heard the learned counsel for the appellant.

4. Despite ordering notice to the respondent, there is no representation on his behalf. Hence, the appeal is taken up for disposal, on merits.

5. The learned counsel for the appellant Transport Corporation submitted that the Tribunal has erred in concluding that the accident had happened only due to the carelessness and negligence of the driver. Further, the learned counsel submitted that the Tribunal has not taken into consideration the evidence of RW 1. It is submitted that the Tribunal has failed to consider the age of the claimant, while applying multiplier and ought to have adopted lesser multiplier as per the rulings of the Apex Court.

6. A perusal of the award would go to show that the Tribunal has relied upon the evidence of PW 1/claimant and Ex.P.1. First Information Report for fixing the negligence on the part of the driver of the Corporation bus and fastening the liability on the part of the appellant Transport Corporation. Though it is stated in the evidence of RW 1 that the cyclist / claimant was under the influence of Alcohol at the time of accident and in order to prove the same, no documentary evidence has been adduced on their side. In the absence of rebuttal evidence, the Tribunal has rightly come to the conclusion 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.

7. As far as the quantum of compensation awarded by the Tribunal is concerned, the Tribunal has taken into consideration Ex.P.3 Wound Certificate and Ex.P6, Disability Certificate, which reveal that the claimant sustained fracture in his elbow. PW 2 doctor has issued disability certificate at 40%. Though it is stated by the claimant in his affidavit that he was working as Mesthri and was earning monthly salary of Rs.5,000/-, in the absence of any documentary proof, the Tribunal has taken the monthly income of the claimant at Rs.3,000/-, considering the age of the claimant, (37) and applied the multiplier 16 and awarded a sum of Rs.1,53,600/- towards his disablement. Considering the nature of injuries sustained by the claimant, the Tribunal has awarded a sum of Rs.5,000/- towards pain and suffering., Rs.5,000 towards extra nourishment, totalling to Rs.1,63,600/-.

8. Further, it is borne out from records that the accident had taken place in the year 2002, the petition was filed during 2002, Judgment was passed in the year 2007, appeal was filed during 2008 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, affirming 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

To

1. The Motor Accident Claims Tribunal,
Arani.
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104.

+lcc to Mr.N.Anand, Advocate Sr.69894

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