

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2019

CORAM:

THE HON'BLE MR.JUSTICE.R.MAHADEVAN

C.M.A.No.1438 of 2009

The Managing Director,
Tamil Nadu State Transport corporation Ltd.,
Erode.

..... Appellant/2nd Respondent
Vs.

1. K. Palanisamy 1st Respondent/Petitioner

2. K. Vellaisamy(given up)2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the Judgment made in M.A.C.T.O.P.No. 610 of 2005 dated 12.07.2006 passed by the Motor Accident Claims Tribunal-cum-Additional District and Sessions Court (Fast Track Court No.3), Dharapuram.

For Appellant : Mr.N. Anand

For R-1 : Mr.B.Dyaneswaran
R2 Given up

J U D G M E N T

This Appeal has been filed by the appellant/Tamil Nadu State Transport Corporation Ltd., against the judgment dated 12.07.2006 passed in M.A.C.T.O.P.No.610 of 2005 by the Motor Accident Claims Tribunal cum Additional District and Sessions Court (Fast Track Court No.3), Dharapuram.

2.It is the case of the claimant / first respondent that on 03.11.2000 at about 4:30 p.m, when he was walking on the Mulanur- Sanarpalayam Road, near Maligai, the appellant Transport Corporation bus bearing Registration No.TN-33-N-0491 came from the opposite direction in a rash and negligent manner and dashed against him, as a result of which he sustained multiple injuries. He was taken to the Government Hospital, Dharapuram and then he was referred to Apollo Hospital, Dharapuram. The first respondent filed a claim petition in M.A.C.T.O.P.No. 610 of 2005 seeking compensation of Rs.3,50,000/-. Upon consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.1,15,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same as excessive and exorbitant, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.The learned counsel appearing for the appellant / Transport Corporation would contend that the Tribunal has fixed the negligence on the part of the driver of the bus, which is incorrect. He would further contend that the amounts awarded by the Tribunal under all the heads are exorbitant, which requires interference by this Court for substantial reduction.

5.Per contra, the learned counsel appearing for the first respondent would submit that the Tribunal has awarded the compensation after verifying the relevant documents, such as, the disability certificate assessed by the Doctor at 32% and the same was properly taken into account for calculating the compensation under that head. He would further contend that considering the occupation of the injured, Rs.1,500/- has been taken as monthly income and taking note of the age, multiplier 11 was adopted by the Tribunal for arriving at the sum of Rs.63,360/- towards compensation under the head of disability. The learned counsel would also submit that the Tribunal has awarded the compensation, based on the documents available on record and hence the same does not require any interference.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.The Tribunal has taken note of the evidence of P.W.1-claimant and R.W.1-driver of the bus and found that the bus driver has not given any complaint or counter complaint before the police at the first instance. The Tribunal, by way of evidence, observing that the claimant has proved that the accident had occurred only due to the rash and negligent driving of the driver of the bus, has negatived the evidence of R.W.1 and fixed the negligence on him. This Court is not inclined to interfere with the said factual finding arrived at by the Tribunal.

8.With regard to the quantum of compensation, the Tribunal has considered medical bills i.e. Ex.P.7 to Ex.P.13 and has awarded Rs.4,900/- towards medical expenses. Under the head of future surgery expenses, the Tribunal after considering the disability certificate issued by the doctor/P.W.2 who assessed disability at 32%, has awarded a sum of Rs.10,000/- under that head. In the claim petition, it is stated that the claimant was 50 years and doing agricultural work as well as other business and earning a sum of Rs.6,000/- per month. Considering the materials and evidence, the Tribunal was of the view that the claimant would have earned at least Rs.1,500/- per month and adopting the multiplier of 11, awarded a sum of Rs.63,360/-

towards loss of income for 32% disability. The Tribunal has also awarded a sum of Rs.36,740/- towards pain and suffering, extra nourishment and transport expenses. In toto, the Tribunal has awarded a sum of Rs.1,15,000/- with interest at the rate of 7.5% per annum from the date of petition. This Court is of the opinion that the compensation awarded by the Tribunal under different heads is just and fair and not excessive as stated by the appellant herein. In such view of the matter, the award passed by the Tribunal is perfectly valid in the eye of law.

9. In the result, the award passed by the Claims Tribunal is confirmed and this Civil Miscellaneous Appeal is dismissed. No costs. The appellant/Transport Corporation shall deposit the compensation amount along with interest and costs, as ordered by the Claims Tribunal, less the amount already deposited, if any, within a period of six weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

smn/srk /rk

To

1. Additional District and Sessions Judge,
The Motor Accident Claims Tribunal,
Additional District and Sessions Court
(Fast Track Court No.3), Dharapuram.

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

+1cc to Mr.N.Anand, Advocate, S.R.No. 65571

C.M.A.No.1438 of 2009

BR(CO)
GN(26/08/2020)