

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.06.2019
CORAM:
THE HON'BLE Mr. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal No.3537 of 2008

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division I,
Coimbatore 43

.. Appellant/2nd Respondent

..VS..

1. K.Perumal Respondent/Petitioner
2. M.Selvam
(given up) ... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 31.03.2008 made in M.C.O.P.No.4 of 2006 on the file of the Motor Accident Claims Tribunal and Chief Judicial Magistrate, Erode.

For Appellants : Mr. S.V.Vasanthakumar

J U D G M E N T

The appellant has filed this Appeal against the award dated 31.03.2008 passed by the Claims Tribunal.

2. The case of the claimant / first respondent herein, before the Tribunal was that on 06.09.2005 at about 08.00 hrs, the second respondent herein (driver) drove the appellant's bus bearing Registration No.TN38-N-0695 and when the bus was nearing Devampalayam Cross, it hit against a tree and due to the said impact, the claimant / first respondent herein and others sustained grievous injuries. Claiming that the accident had happened only to the rash and negligent driving of the appellant's bus driver, the claimant has filed a petition for compensation, before the Tribunal, for a sum of Rs.2,50,000/-.

3. After filing of the counter and after framing issues and examining P.Ws.1 and 2 and R.W.1 and Exs.P-1 to P-11, the Tribunal, by way of observations, fastened the liability on the appellant herein and assessed the compensation at Rs.1,07,900/-. As against which, the Transport Corporation has preferred this Appeal.

4. Heard the learned counsel for the appellant.

5. The learned counsel for the appellant / Transport Corporation would submit that the Tribunal erroneously fixed the negligence on the part of the appellant's bus driver; the Tribunal failed to consider the age and income of the claimant in the proper perspective and in any event, the award passed by the Tribunal is unsustainable.

6. A perusal of the award passed by the Tribunal would go to show that it has analysed the mode of accident and held that since the bus was driven by its driver in the uncontrollable speed, the bus hit the tree. The Tribunal also held that the FIR discloses all the narration of events and the Criminal Court, after taking cognizable offence and after detailed investigation, finally charge sheeted the second respondent herein. Further, the evidence of the eyewitness also corroborates the contents of the FIR. Hence, this Court is of the opinion that the Tribunal has analysed the mode of accident in a threadbare manner and rendered its finding that the accident had happened due to rash and negligent driving of the driver of the appellant's bus. Thus no interference is called for against the same.

7. As far as quantum is concerned, the Tribunal has taken the monthly income at Rs.4,000/-, disability at 20%, multiplier at 8 and ultimately assessed the loss of income at Rs.76,800/-, which in the considered view of this court is in fact less and not more. The award passed under other heads is also on conventional basis, which in the opinion of this Court, require no interference. In upshot, the award passed by the Claims Tribunal on negligence and quantum is justifiable.

8. In the result, affirming the award of the Claims Tribunal, this Appeal is dismissed. No costs.

9. 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 / respondent 1, through RTGS, one week thereafter.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Motor Accident Claims Tribunal and
Chief Judicial Magistrate,
Erode.
2. The Section Officer, V.R.Section, Madras High Court,
Chennai 104

+1cc to Mr. S.V.Vasanthakumar, Advocate sr.53896

C.M.A.No.3537 of 2008

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