

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3577 of 2008

and

M.P.No.1 of 2008

The Managing Director,
Division III, Tamilnadu State,
Transport Corporation,
No.1, Sheikpet Nadu Street,
Vedhachalam, Maligai,
Kancheepuram.

.. Appellant/Respondent

Vs.

E.Jeeva

.. Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 12.2.2007 made in MCOP.No.296 of 2000 on the file of Motor Accidents Claims Tribunal and Additional District Judge, Fast Track Court II at Kancheepuram.

For Appellant : Mr.S.V.Vasanthakumar

For Respondent : No Appearance

J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal, the appellant -Transport Corporation has preferred this Civil Miscellaneous Appeal.

2. The case in brief, as stated in the claim petition, is as follows:

On the fateful day, i.e., on 12.02.2000, at 5.30 pm, the respondent/claimant along with his friend one Saravanan was walking on the side of the Bazaar Street at Walajabath, a bus bearing Registration No.TN21 N0234 belonging to the appellant Transport Corporation, which was proceeding from Chengalpattu towards Kancheepuram came in a rash and negligent manner and dashed against the respondent/claimant. Due to the said impact, the wheel of the bus ran over his leg, causing him multiple injuries all over the body. He filed a claim petition claiming a sum of Rs.4,00,000/- as compensation.

3.The Tribunal, after examining the oral and documentary evidence adduced by the parties, awarded a total compensation of Rs.1,12,500/- with interest at the rate of 7.5% per annum from the date of petition. Aggrieved over the quantum so determined as excessive, the appellant Transport Corporation is before this Court with the present appeal.

4.The learned counsel for the appellant Transport Corporation has disputed only the quantum of compensation awarded by the Tribunal. According to him, the award of Rs.1,12,500/- is excessive and exorbitant and also disproportionate to the injuries sustained by the respondent/respondent and hence, the same needs to be reduced.

5.Heard the learned Counsel for the appellant and perused the materials available on record carefully and meticulously.

6.Despite the service of notice and the name of the respondent having been printed in the cause list, there is no representation on his behalf. However, considering the passage of time, this Court proceeds to dispose of this appeal on merits.

7.The learned counsel for the appellant Transport Corporation has not disputed the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus and hence, the said finding of the Tribunal need not be interfered with by this Court.

8.As regards the quantum of compensation, the respondent/claimant himself examined as P.W.1. He claimed that he was aged about 26 years and was earning Rs.5000/- to Rs.7000/- per month as a Tea Master. He further asserted in his evidence that in the accident, all the 5 fingers of his right leg were amputated; and he suffered injury on his right thigh, for which, he was initially treated in the Government Hospital, Kanchipuram and in Chennai Government Hospital as inpatient for 2½ months i.e., from 13.02.2000 till 21.03.2000 and thereafter, he continued the treatment for more than two years. The evidence of P.W.1 was corroborated by P.W.2/Doctor, who examined the claimant, issued Ex.P5-disability certificate to the tune of 45%. Ex.P4 photographs and negatives supported the case of the respondent/claimant. Ex.P6 is X-ray. The Tribunal, after considering the materials and evidence let-in by the respondent/claimant, has arrived at Rs.40,000/- towards injuries and pain and suffering, Rs.7,500/- towards transport charges and extra nourishment, Rs.35,000/- towards partial permanent disability and Rs.30,000/- towards loss of future prospects, in totaling Rs.1,12,500/- as compensation. Having regard to the

nature of injuries and the quantum of permanent disablement sustained by the respondent/claimant, the amounts so awarded by the Tribunal under the above heads, are just and very reasonable and the same are hereby confirmed.

9. In fine, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant Transport Corporation is directed to deposit the entire award amount with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the Tribunal shall transfer the same to the savings bank account of the respondent/claimant through RTGS, within a period of one week thereafter. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

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To

1. The Additional District Judge,
Motor Accidents Claims Tribunal,
Fast Track Court II,
Kancheepuram.

2. The Section Officer,
VR Section,
High Court,
Madras.

C.M.A.No.3577 of 2008

GP (CO)
SP (02/03/2020)

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