

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1550 of 2009

and

M.P.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation
Railway Station Road,
Kumbakonam Town,
Thanjavur District. Appellant /Respondent

Vs

M.Chinnavandu Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 10.10.2006 made in MCOP No.171 of 2005 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Mayiladuthurai.

For Appellant : Mr.N.Anand

JUDGMENT

This appeal is preferred by the Transport Corporation against the award of a sum of Rs.83,750/- towards compensation to the respondent, who sustained injuries in a road accident.

2.The case in brief, is as follows:

On 15.01.2004, the respondent was travelling in a bus Route No.22 belonging to the appellant Transport Corporation. When he tried to get down at Alankudi Bus stop, without noticing the same, the driver of the bus suddenly started the vehicle. Due to the said impact, the respondent fell down and the wheel of the bus ran over his leg. Stating that the accident had occurred due to carelessness and negligence on the part of the driver of the bus, he filed a claim petition claiming a compensation of Rs.4,00,000/-. On consideration of the evidence and materials available on record, the Tribunal awarded a total compensation of Rs.83,750/- with interest at the rate of 7.5% per annum from

the date of petition, to the claimant. Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant submitted that the accident had occurred only due to the negligence on the part of the respondent. However, the Tribunal has erred in relying upon the evidence of P.W.1 and P.W.2 and coming to the conclusion that the driver of the bus alone was responsible for the accident. He further submitted that the quantum of compensation awarded by the Tribunal is excessive and exorbitant and hence, the same has to be reduced substantially.

4.Heard the learned counsel for the appellant and perused the materials available on record.

5.Though this appeal was admitted way back in the year 2009, the appellant has not taken proper steps to serve papers on the respondent. However, considering the passage of time, this appeal is taken up for disposal, on merits.

6.P.W.1/respondent/claimant has deposed in his evidence that while he tried to get down at Alankudi Bus stop, the driver of the bus had suddenly taken the vehicle, without noticing the same and thereby caused the accident. His version was supported by P.W.2/Santhi, who was stated to be the eye witness to the occurrence. Ex.P1-First Information Report, proceeds to state that the driver of the bus was responsible for the accident, for which, the criminal proceedings was lodged against him. Though it was contended on the side of the appellant Transport Corporation that the respondent/claimant had travelled in the foot board of the bus and tried to get down from the moving bus with an intention to get into the another bus, during the course of which, he fell down and sustained fracture and hence, he himself invited the accident, no evidence was adduced either in oral or in documentary, to substantiate the same. In the absence of any contra 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 bus, which finding this Court is not inclined to interfere.

7.As far as the quantum of compensation awarded by the Tribunal is concerned, P.W.1/claimant has stated in his evidence that he was 62 years old and was earning Rs.3,000/- per month as Agricultural Coolie; in the accident, his right leg below knee was amputated, besides receiving injuries in all over the body. P.W.3/doctor, who issued Ex.P3 disability certificate, has deposed that the claimant's right leg bones were broken and there was mal-union of bones, due to which, movement has been restricted; as a result of the same, the respondent/claimant

could not able to sit, squat, walk as before and he sustained 35% disability. Considering the nature of injuries suffered by the claimant and the quantum of permanent disability, the Tribunal has awarded Rs.25,000/- towards permanent disability by taking 25%, which is just and reasonable and hence, the same does not call for any interference by this Court. Further, the Tribunal has awarded Rs.18,750/- (Rs.15,000/- x 5 x 25%) towards loss of income, Rs.3,000/- towards transportation, Rs.2,000/- towards extra nourishment, Rs.10,000/- towards medical expenses and Rs.25,000/- towards pain and suffering, which, in the opinion of this Court, appears to be fair, just and reasonable and the same cannot be treated as excessive and exorbitant and hence, the same are hereby confirmed.

8. Finding no merit, this appeal fails and is accordingly, dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Transport Corporation is directed to deposit the award amount as ordered by the Tribunal with interest and costs, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent /claimant is permitted to withdraw the same, on making proper application.

Sd/-

Assistant Registrar (CS- III)

//True Copy//

Sub Assistant Registrar

gbi/rk

To

The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Mayiladuthurai.

Copy To

The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.N.Anand, Advocate, S.R.No. 72646

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SSV(CO)
GN(14/08/2020)