

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.08.2019
CORAM:
THE HON'BLE Mr. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal No.1553 of 2009 and
M.P.No.1 of 2009

The General Manager
Tamil Nadu State Transport
Corporation Ltd
Kumbakonam

Appellant / 2nd Respondent

Vs

1. Ravichandran

Respondent / Claimant

2. N.V.Alagiri

Respondent /1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 03.07.2006 passed in M.C.O.P.No.77 of 2005 on the file of the Motor Accident Claims Tribunal, Karaikal.

For Appellant : Mr.N.Anand

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant / Transport Corporation, as against the award of the Tribunal passed in MCOP No.77 of 2005.

2. It was the case of the Claimant before the Tribunal that on 22.08.2004 at about 13.15 hours, when the claimant was riding his TVS Moped bearing Reg.No.PY 02 B 7684, along with his wife, from north to south direction in Pettai Road Corner, a TNSTC bus bearing Reg.No.TN 49 N 1234, came in a opposite direction rash and negligently dashed against the two wheeler, due to which, the claimant sustained injuries all over the body. Stating that the accident had happened, due to the rash and negligent driving of the driver of the TNSTC bus, the claimant has filed a claim petition before the Tribunal. The Tribunal based on the materials available on record, has awarded a sum of Rs.3,90,167/- as compensation.

3. Heard the learned counsel for the appellant Transport Corporation.

4. Despite ordering notice to the respondents, they are not served till date and hence the appeal itself is taken up for consideration on merits.

5. The learned counsel for the appellant has submitted that the Tribunal has erroneously fixed the negligence on the appellant Transport Corporation, by relying upon the evidence of PW 1. The Tribunal has failed to consider the age of the claimant, while applying multiplier and ought to have adopted lesser years of multiplier as per the rulings of the Apex Court. He further submitted that the compensation awarded by the Tribunal is without any basis and material evidence on record.

6. An analysis of the award of the Tribunal would go to show that before the Tribunal, Pws 1 and 2 were examined and Exs.A.1 to 37 were marked. On the side of the respondent, no oral and documentary evidence adduced. The Tribunal has taken into consideration the documents produced on the side of the claimant and the evidence of the claimant, more particularly Ex.A.1 First Information Report and came to the conclusion that the accident had happened only due to the rash and negligent driving of the driver of the Corporation bus. Though, it is stated by the appellant herein that the claimant was under the influence of alcohol at the time of accident, in the absence of any documentary proof, the Tribunal has taken the stand of the claimant and fastened the negligence on the driver of the Corporation bus and liability on the Transport corporation. Hence, this Court finds no reasons to differ from the view taken by the Tribunal, since the Tribunal has rendered its findings on negligence aspect, based on evidence and materials available on record.

7. As far as the quantum of compensation is concerned, the Tribunal has taken into consideration the evidence of Pws 1 and 2 and the medical records produced by the claimant, has taken the age of the claimant as 43 and the perfect match of multiplier 15 was adopted by the Tribunal and arrived at Rs.1,26,000/- as compensation under the head of permanent disability. It is to be noted that the claimant took treatment as inpatient for a period of 11/2 years in Vinodhagan Memorial Hospital, Tanjore. Considering the nature of injuries sustained by the claimant and the period of treatment taken by him, the Tribunal has awarded a sum of Rs.36,000/- towards loss of income, Rs.16,000/- towards transportation charges,

Rs.1,57,167/- towards medical expenses, Rs.5,000/- towards extra nourishment and Rs.50,000/- towards pain and sufferings. Thus, the Tribunal has awarded a sum of Rs.3,90,167/-, as total compensation, which in the opinion of this Court is nothing but just.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed. The appellant/Transport Corporation shall deposit the entire compensation amount, along with interest 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vrn
To

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

+1 cc to Mr.N.Anand Advocate sr72647

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