

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1011 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram) Limited,
No.3/137, Salamedu,
Vazhuthareddy,
Villupuram - 605 602.

.. Appellant/Respondent

Vs.

Muthuvel

.. Respondent/Claimant

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 04.04.2014, made in M.C.O.P.No.36 of 2011, on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Vridhachalam.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 04.04.2014, made in M.C.O.P.No.36 of 2011, on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Vridhachalam.

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

3.The appellant-Transport Corporation is respondent in M.C.O.P.No.36 of 2011, on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Vridhachalam. The respondent filed the said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the

accident that took place on 15.10.2009. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation and directed the appellant-Transport Corporation to pay a sum of Rs.2,63,500/- as compensation to the respondent. Challenging the said award dated 04.04.2014, made in M.C.O.P.No.36 of 2011, granting compensation to the respondent, the appellant-Transport Corporation has come out with the present appeal.

4.The contention of the learned counsel appearing for the appellant-Transport Corporation that the Tribunal erred in fixing negligence on the part of the driver of the bus and liability on the appellant-Transport Corporation by merely accepting the evidence of PW1 and Ex.P1-FIR and the amounts awarded by the Tribunal under various heads are excessive are contrary to the materials available on record. In the absence of any contra evidence let in on the side of the appellant to disprove the contention of the respondent, the Tribunal has considered the evidence of first respondent as P.W.1, who is injured eye witness and Ex.P1/F.I.R. registered against the driver of the bus belonging to the appellant-Transport Corporation and accepting the evidence of PW1 held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation. The Tribunal has considered the evidence of P.W.2- Doctor who assessed the percentage of disability suffered by the 1st respondent as 70% and awarded a sum of Rs.1,40,000/- towards permanent disability. No document was produced by the respondent to prove his avocation. Hence, the Tribunal fixed a sum of Rs.4,500/- as monthly income of the respondent and awarded a sum of Rs.54,000/- towards loss of income for 12 months at the rate of Rs.4,500/- per month. The Tribunal considered entire materials on record, in proper perspective and awarded a total sum of Rs.2,63,500/- as compensation to the respondent/claimant. The compensation awarded by the Tribunal is just compensation and not excessive. I do not find any error in the award passed by the Tribunal warranting interference by this Court.

5.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.2,63,500/- awarded by the Tribunal as compensation to the respondent/claimant, along with interest and costs is confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.36 of 2011. On such

deposit, the respondent/claimant is permitted to withdraw the award amount, along with interest and costs, after adjusting the amount, if any already withdrawn, by filling necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

pds/krk

To

1.The Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Vridhachalam.

Copy TO

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

+lcc to Mr.K.J.Sivakumar, Advocate, S.R.No. 6674

C.M.A.No.1011 of 2015
and C.M.P.No.1 of 2015

VBA (CO)
GN (23/05/2019)

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