

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2019

Coram:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

Civil Miscellaneous Appeal No.1633 of 2009 and
M.P.No.1 of 2009

The Managing Director
Tamilnadu State Transport Corporation
Villupuram Division III
Sheikpet Nadu Street
Kanchipuram

Appellant /1st Respondent

Vs

Karpagam

Respondent/Claimant

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act against the Judgment and Decree dated 26.09.2008 passed by the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.II, Kanchipuram in MCOP No.151 of 2006.

For Appellant : Mr.S.V.Vasanthakumar

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant / Transport Corporation as against the award passed by the Tribunal.

2. The Respondent/claimant met with an accident on 21.09.2005 at about 7.00am, when she was standing near Kanchipuram bus stand water tank, the driver of the appellant bus bearing Reg.No. TN 21 N 0668 came in a rash and negligent manner, hit the claimant from behind, due to which, she sustained grievous injuries. The claimant has filed a claim petition before the Tribunal and the Tribunal based on the materials available on record has awarded a sum of Rs.1,71,070/- as compensation.

3. Heard the learned counsel for the appellant.

4. Despite ordering notice to the respondent and name being printed in the cause list, the respondent is not present before this Court. Hence, the appeal is taken up for disposal, on merits.

5. The learned counsel for the appellant Transport Corporation submitted that the Tribunal has failed to consider that the claimant was negligently standing in the bus stand. Further, the learned counsel submitted that the Tribunal has erroneously applied 18 multiplier for 25% disability, without any doctor's evidence. It is submitted that the award passed by the Tribunal under various heads are excessive and exorbitant.

6. A perusal of the award would go to show that the Tribunal has relied upon the evidence of PW 1/claimant and Ex.P.1 First Information Report. It is pertinent to note that the evidence of PW 1 corroborates the contents of First Information Report. Moreover, a criminal case has been initiated against the driver of the Corporation bus only. Though it is stated on the side of the appellant Transport Corporation that the driver of the bus was neither rash nor negligent and he was not at all responsible for the accident, in order to substantiate the same, no oral or documentary evidence has been adduced on their side. To be more particular, even the driver of the Corporation bus also has not been examined before the Tribunal. In the absence of any rebuttal evidence, the Tribunal has come to the conclusion that the accident had happened only due to the rash and negligent driving of the driver of the Transport Corporation bus, which in the opinion of this Court is perfectly justified.

7. As far as the quantum of compensation awarded by the Tribunal is concerned, the Tribunal has taken into consideration Exs.P.2 to 8, Medical records, which reveals that the claimant sustained injuries on his left leg thigh, hip, cheeks and all over the body. Further, the Tribunal has taken note of the evidence of PW 2 Doctor, who has deposed that hip bone of the claimant was malunited and due to which, she cannot walk, squat and stand continuously and assessed her Disability at 35%. The Tribunal on consideration of the nature of injuries sustained by the claimant and the period of treatment taken by her, has taken the disability at 25%. Further, the claimant has stated in her affidavit that she was an agricultural coolie and was earning Rs.100/- to Rs.150/- per day. In the absence of any oral or documentary proof, the Tribunal has taken the monthly income of the claimant at Rs.3,000/-, applied the multiplier 18, based on age of the claimant (30) and awarded a sum of Rs.1,62,000/- as compensation towards partial permanent disability. That apart, considering the nature of injuries sustained by the claimant, the period of treatment taken by her, the Tribunal has awarded a sum of Rs.1,000/- towards pain and suffering, Rs.6,070 towards medical expenses (based on Ex.P.4 series medical bills) Rs.1,000/- towards mental agony, Rs.500/- towards extra nourishment and Rs.500/- towards transport expenses.

8. Further, it is borne out from records that the accident had taken place in the year 2005, the petition was filed during 2006, Judgment was passed in the year 2008, appeal was filed during 2009 itself and the Judgment in the appeal is being pronounced only now, i.e 2019. Hence, after such a long period, it may not be proper for this Court to interfere with the quantum of compensation awarded by the Tribunal, especially for the reason that when the prices are escalated manifold and there is a reduction in the value of money. Having regard to the lapse of time also, the award of compensation quantified by the Tribunal has to be confirmed.

9. In the result, affirming the award of the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. 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 forthwith, through RTGS. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vrn
To

1. The Motor Accident Claims Tribunal/ Additional District Judge,

Fast Track Court No.II, Kanchipuram

2. The Section Officer
V.R.Section
Madras High Court
Chennai 104

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A.SK(20/07/2020)