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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2019

Coram:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

Civil Miscellaneous Appeal No.1634 of 2009 and
M.P.No.1 of 2009

The Managing Director
Tamilnadu State Transport Corporation
Salem Division Ii
Bharathipuram
Dharmapuri

Appellant /2nd Respondent

Vs

1. Jayakanthi Respondent/Claimant

2. K.Prabakaran Respondent/1st Respondent

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act against the Judgment and Decree dated 28.02.2008 passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate No.I, Krishnagiri in MCOP No.1529 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 1st Respondent/claimant met with an accident on 16.05.2004 at about 6.30 pm, while he was travelling in the appellant bus bearing Reg.No.TN 29 N 0802, when the bus proceeding in between Salivaram and Arulalam village, due to the rash and negligent driving of the driver of the bus, it got capsized, due to which, the claimant sustained grievous injuries. Stating that the accident had happened only due to the rash and negligent driving of the driver of the bus, 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.1,23,500/- as compensation.

3. Heard the learned counsel for the appellant.



4. Despite ordering notice to the respondents, notice has not been served to the 1st respondent as no such person is available in their address. Regarding service of notice to the 2nd respondent, it is stated as R2 given up. Hence, the appeal is taken up for disposal, on merits.

5. The learned counsel for the appellant Transport Corporation submitted that the Tribunal has erroneously fixed the negligence on the appellant driver, who drove the bus carefully. The learned counsel further submitted that the Tribunal has erroneously awarded Rs.80,000/- for 40% disability, in the absence of medical records. 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 PW 2, who has travelled in the said bus along with the claimant at the time of accident. It is crystal clear from the documents Ex.P.1 First Information Report and Ex.P.2 Wound Certificate that due to the rash and negligent driving of the driver of the bus only, the accident had happened and the claimant sustained injuries in the said accident 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 Wound Certificate and Ex.P.4, Disability Certificate, which reveal that the claimant sustained fracture injuries, due to which, he could not perform his day to day duties and not able to lift things and not able to ride any vehicles. The doctor/PW 3, has issued Disability Certificate to the claimant at 25% and taking into consideration of the same, the Tribunal has awarded a sum of Rs.50,000/- towards his disablement. Considering the nature of injuries sustained by the claimant, the Tribunal has awarded a sum of Rs.8,000/- towards pain and suffering., Rs.2,500 towards extra nourishment, Rs.1,000/- towards Transport expenses, Rs.3,000/- towards loss of income and Rs.5,000/- towards loss of amenities, totalling to Rs.69,500/-.



8. Further, it is borne out from records that the accident had taken place in the year 2004, the petition was filed during 2006, Judgment was passed in the year 2006, 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-VI)

//True Copy//

Sub Assistant Registrar

vrn

To

1. The Motor Accident Claims Tribunal/
Chief Judicial Magistrate No.I,
Krishnagiri

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

CMA No.1634 of 2009 and
M.P.No.1 of 2009

BP(CO)
CB(15/07/2021)