

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3838 of 2008

and

M.P.No.1 of 2008

The Managing Director,
Tamilnadu State Transport Corporation
Salamedu, Vazhuthareddy,
Villupuram.

.. Appellant/Respondent

Vs.

T.Rajinikanth

.. Respondent/Claimant

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 09.05.2008 made in M.C.O.P.No.2121 of 2006 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate's Court, Cuddalore.

For Appellant : Mr.V.Kasiviswanathan

J U D G M E N T

This appeal is preferred by the Transport Corporation against the award of a sum of Rs.1,28,900/- towards compensation to the respondent for the injuries suffered by him in a motor vehicle accident.

2.According to the respondent, he sustained grievous injuries in an accident that had occurred on 30.06.2006, while travelling in the bus bearing Regn.No.TN32 N1519, belonging to the appellant Transport Corporation. He filed a claim petition claiming a compensation of Rs.10,00,000/-.

3.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 quantified the compensation at Rs.1,28,900/- payable by the appellant Transport Corporation to the respondent. Challenging the same, the appellant-Transport Corporation has come out with the present appeal.

4.The learned counsel appearing for the appellant-Transport Corporation contended that the Tribunal has erred in fixing negligence on the part of the driver of the bus belonging to the

appellant-Transport Corporation, when the respondent was a foot board traveler in the bus. He further contended that the compensation awarded by the Tribunal is excessive, exorbitant and disproportionate to the injuries sustained by the respondent.

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

6.The record of proceedings would disclose that the respondent/claimant has not been served with notice, till date. However, considering the paucity of time, this Court is inclined to dispose of this appeal on merits.

7.From the materials available on record, it is seen that the respondent examined himself as P.W.1 and he deposed that due to rash and negligent driving by the driver of the appellant/Transport Corporation bus, he fell down from the bus and sustained injuries. Ex.P1 is the FIR, which has been registered against the driver of the bus. The respondent himself admitted in the FIR that he had travelled in the bus as a foot board passenger, because the bus was over crowded. R.W.1/conductor of the bus deposed that though he cautioned not to stand on the foot board, that too, by writing on each and every bus that "படியில் பயணம் செய்தால், நொடியில் மரணம்", the respondent was hanging on the foot board. Ex.P2 MVI Report established that the accident had not occurred due to any mechanical defect, which would draw an adverse inference against the driver of the bus that the accident had occurred only due to his rash and negligent driving of the bus. Considering all those oral and documentary evidence, the Tribunal has rightly come to a conclusion that the driver of the bus alone was responsible for the accident. Thus, the said finding does not call for any interference at the hands of this Court.

8.As far as the quantum of compensation is concerned, PW1/respondent stated that he was working as a fitter (self employed) and earning a sum of Rs.7,000/- per month. In the absence of any evidence to prove the same, the Tribunal has fixed the notional income of the respondent at Rs.3,000/- per month. The respondent claimed that in the accident, he sustained injuries on left Ilium, left joints and also fracture on the right superior and inferior ramus of pubic bone; and he underwent treatment at the Government Hospitals at Chidambaram and Cuddalore, besides in a private hospital. Ex.P3- Accident Register disclosed three injuries suffered by the respondent. P.W.2/Doctor, who examined the respondent, issued Ex.P9 disability certificate, as per which, the respondent sustained 50% permanent disability. Ex.P8 medical bills established that the respondent had spent Rs.6473.73 towards medical expenditure. Based reliance on those oral and documentary evidence, the

Tribunal has awarded Rs.50,000/- towards disability, Rs.25,000/- towards pain and suffering, Rs.7,500/- towards transport expenses, Rs.7,500/- towards extra nourishment, Rs.7,500/- towards attendant charges, Rs.7,500/- towards mental agony, Rs.7,500/- towards loss of amenities, Rs.6400/- towards medical expenses, Rs.10,000/- towards loss of income for three months and in total, Rs.1,28,900/- as compensation to the respondent/claimant. In the considered view of this Court, the amount so awarded by the Tribunal is just and resasonable and the same cannot be said to be excessive or exorbitant at any stretch of imagination, having regard to the nature of the injuries sustained and the period of treatment taken by the respondent/claimant and hence, the same is hereby confirmed.

9.In such view of the matter, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. 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 four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the same to the savings bank account of the respondent/claimant through RTGS within a period of one week thereafter.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

gbi

To

1.The Chief Judicial Magistrate's Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

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

C.M.A.No.3838 of 2008
and
M.P.No.1 of 2008

GP(CO)
CSR: 04/02/2020