

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.4010 of 2008 and
M.P.No.1 of 2008

The Managing Director
Tamil Nadu State Transport Corporation Ltd
Division I
Villupuram

Appellant / Respondent

Vs

Mani

Respondent / Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 18.03.2008 passed in M.C.O.P.No.56 of 2007 on the file of the Motor Accident Claims Tribunal, Fast Track Court No.II, Tindivanam.

For Appellant : Ms.S.V.Vijayalakshmi

For Respondent : Not Ready in Notice

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.56 of 2007.

2. It is the case of the Claimant before the Tribunal that he was aged 30, working as lorry driver and also an Agriculturist earning a sum of Rs.5,000/- per month. On 21.07.2003 at about 14.45 hours, when he was riding his two wheeler along with his friend one Elumalai near Kutteripattu (Villupuram to Tindivanam main Road), a Transport Corporation bus bearing Reg.No.TN 32 N 1663 came in the same direction and hit the claimant from behind. Due to the said accident, the said Elumalai died on the way to hospital and the respondent/claimant sustained grievous injuries. Stating that the accident had happened only due to the rash and negligent driving of the driver of the Transport Corporation bus/appellant herein, the claimant filed a claim petition, claiming a sum of Rs.2,00,000/- as compensation. The Tribunal based on the materials available on record, has awarded a sum of Rs.58,000/- as compensation with the following break up

S.No	Head	Compensation (in.Rs.)
1.	Medical Expenses	5,000.00
2.	Transportation Expenses & Attender's Charges	5,000.00
3.	Extra nourishment	5,000.00
4.	Loss of earning	6,000.00
5.	Loss of future earnings	12,000.00
6.	Pain & sufferings	10,000.00
7.	Loss of amenities	5,000.00
8.	Mental agony	10,000.00
	Total	58,000.00

3. Though this appeal was admitted way back in the year 2008, the appellant has not taken proper steps to serve notice on the other side. However, considering the passage of time, this Court is inclined to take up this appeal on merits.

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

5. The learned counsel for the appellant submitted that the Tribunal has erroneously fixed the negligence on the appellant Transport Corporation. He further submitted that the compensation awarded under each and every heads are not in consonance with the injuries sustained by the claimant and hence it needed substantial reduction.

6. An analysis of the award of the Tribunal would go to show that the Tribunal has taken into consideration the fact that the appellant has not taken any action with regard to the establishment of the manner of accident. It is worthwhile to note that the appellant has not even denied the accident before the Tribunal. Further the respondent herein has been examined as PW 1 (before the Tribunal) and he has clearly deposed with regard to the manner of accident. The evidence of PW 1 also corroborates the version of Ex.P.1 First Information Report, based on which, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the Corporation bus. This Court finds no reasons to differ from the view taken by the Tribunal, since the Tribunal has rendered findings based on evidence and materials available on record. Also, there is no contra evidence except the version of RW 1, that too without denying the manner of accident.

7. As far as quantum of compensation is concerned, the Tribunal has taken into consideration Ex.P.2 Wound Certificate, which reveals that the respondent herein has

sustained the following injuries.

- i. Complaint of pain, difficult in breathing
- ii. Abrasion on the left clavical toe.

The Tribunal has taken note of the injuries sustained by the respondent herein and also considering the Disability Certificate Ex.P.3, quantified the compensation at Rs.58,000/-, 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.

Sd/-

Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

srk / vrn

To

1. The Motor Accident Claims Tribunal/Fast Track Court No.II
Tindivanam.

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

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SS (CO)
GMY (22/07/2020)

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