

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.202 OF 2010

AND

M.P.NO.1 OF 2010

The Managing Director,
Metropolitan Transport Corporation,
Pallavan House, Annasalai,
Chennai 2

... Appellant/Respondent

Vs

Jegan

... Respondent/Petitioner

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Judgement and Decree dated 14.03.2008 made in M.C.O.P.No.33 of 2005 on the file of the Motor Accidents Claims Tribunal, Ponneri and praying to set aside the same.

For Appellant : Mr.M.Deivanandam

J U D G M E N T

This appeal has been filed by the appellant Transport Corporation challenging the judgment and decree dated 14.03.2008 made in M.C.O.P.No.33 of 2005 on the file of the Motor Accidents Claims Tribunal, Ponneri.

2.The case in brief, is as follows:

On 06.10.2004, the respondent herein was travelling in the bus bearing Reg.No.TN-02-N-0098 (28A Route), belonging to the appellant Transport Corporation. When it reached near the Enfield Company in Thiruvottriyur, in view of applying sudden brake in a rash and negligent manner, the respondent was thrown out of the bus and sustained injuries. He claimed a sum of Rs.5,00,000/- as compensation before the Tribunal. Considering the materials and evidence available on record, the Tribunal has

awarded a total compensation of Rs.1,27,500/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant has come up with this appeal.

4.The learned counsel for the appellant has submitted that the Tribunal has erred in holding that the driver of the appellant's bus was rash and negligent and was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is exorbitant and excessive.

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

6.Though this appeal was admitted way back in the year 2010, the appellant has not taken proper steps to serve notice on the other side even at this length of time. However, due to efflux of time, this appeal is taken up for final disposal on merits.

7.The claimant has been examined as P.W.1 before the Tribunal. He deposed that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation. Ex.P1 is the First Information Report registered to that effect. Even though it has been contended before the Tribunal by the Transport Corporation that the driver of the bus was not responsible for the accident, the occurrence and the injuries sustained by the claimant have not been disputed by the Transport Corporation. Further, the appellant has not properly proved by way of adducing evidence to show that the bus driver was not negligent in driving the bus. In the circumstances, the Tribunal fixed the negligence on the part of the driver of the bus, which factual finding this Court is not inclined to interfere.

8.With regard to the quantum of compensation, the Tribunal has awarded a sum of Rs.65,000/- towards 65% disability as per Ex.P6-Disability Certificate issued by P.W.2-Doctor. The Tribunal has also awarded a sum of Rs.30,000/- towards loss of future earning capacity, Rs.2,000/- towards transport expenses, Rs.3,000/- towards extra nourishment, Rs.2,000/- towards damage to clothes/articles, Rs.3,000/- towards medical expenses, Rs.20,000/- towards pain and suffering and Rs.2,500/- towards loss of income during the treatment period. The Tribunal has relied upon the exhibits, evidence of witnesses, medical bills, treatment records, percentage of disability assessed by the Doctor and all other aspects in a proper perspective and has awarded the above amounts under various heads to the claimant. Further, this Court is of the considered view that the amounts

awarded towards these heads are reasonable and justifiable and hence the same are confirmed.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant/Transport corporation is directed to 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 respondent/claimant is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ssd

To

The Motor Accidents Claims Tribunal,
Ponneri.

+1cc to Mr.M.Deivanandam, Advocate, S.R.No.62224

C.M.A.No.202 of 2010

RSV(CO)
CS/27/07/2020

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