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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgement Reserved on : 05.03.2019

Judgement Delivered on : 12.06.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1248 of 2011

Adimoolam ... Appellant/Petitioner/Claimant

Versus

The Tamil Nadu State Transport Corporation,
Rep.by its Managing Director,
Dharmapuri. ... Respondent/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 01.08.2008 made in MCOP.No.87 of 2005 on the file of the Motor Accident Claims Tribunal Sub-Court, Tirupattur, Vellore District.

For Appellant : Mr.F.Terry Chella Raja

For Respondent : Mr.D.Venkatachalam

JUDGMENT

The injured claimant is the appellant herein, who filed MCOP.No.87 of 2005 seeking compensation for the injuries sustained in the road accident took place on 26.06.2004 and the same was dismissed by the Tribunal. Hence, the claimant/appellant has come up with the present appeal before this Court.

2.The appellant/claimant has filed the above said claim petition and narrated that accident took place on 26.06.2004 at about 1.45 pm, near Pachchakuppam Railway Gate, on M.C.Road, in between Ambur to Madanur, when the Bus bearing Registration No.TN-29-N-1365 belonging to the respondent/Transport Corporation which was driven by its driver in a rash and negligent manner, dashed against the claimant, who was standing on the extreme left side of the road.

2.1.Due to the impact, the claimant sustained grievous injuries on his left cheek, left leg knee, left chest and



multiple injuries all over the body. Immediately, he was taken to the Government Hospital, Ambur, where he was admitted as an in-patient from 26.06.2004 to 03.07.2004. Afterwards, he also took treatment as an out-patient in the private hospital. A case was registered at Ambur Rural Police Station as against the driver of the Transport Corporation for rash and negligent driving, on the same day. Therefore, the claimant filed the above said MCOP.No.87 of 2005, claiming a sum of Rs.30,000/- as compensation.

3.Before the Tribunal, the claimant was examined as PW.1, besides one eye witness was examined as PW.2 and three documents were marked as Ex.P1 to P3. On the side of the respondent, neither oral nor documentary was adduced.

4.The Transport Corporation has filed a counter statement and denied all the averments made by the claimant in the claim petition and other details furnished by the claimant. Hence, he prayed for dismissal of the claim petition.

5.After going through the oral and documentary evidences, the Tribunal has held that the accident has not occurred in the manner stated in the claim petition and the involvement of the vehicle was not proved. Hence, the claim was rejected and the claimant pleadings were also rejected before the Tribunal. Therefore, the claimant's claim petition was dismissed.

6.Heard both the learned counsel appearing for the respective parties and also perused Exs.P1, P2 and P3, this Court finds that Ex.P1 is the discharge summary of the claimant, Ex.P2 is the Accident Register of the claimant, which was issued by the Government Hospital, Ambur on 26.06.2004 and Ex.P3 is the Identity proof of the claimant. In Ex.P2, it is categorically reported as follows:-

"alleged to have been hitdown by the Bus, Annai Sathya gone towards Tirupattur at M.C.Road, Pachchakuppam Railway Gate around 1.50pm on 26.06.2004, No work." and the injuries sustained by the claimant are as follows:

1/2 "1.Laceration left tounge (SIC) near eye 3 x 1/2 x

contusion around in 4 cm².

2.Abrasion 2 cm² near IS² knee (SIC)

3.Contusion around left Upper Jaw (UJ) 6cm²

4.c/o pain left chest

5.Abrasion with contusion on the left side of the shoulder 3cm²."



7. In view of the above said Accident Register, it is clearly stated that the claimant had sustained simple injuries as elicited therein. Subsequently, the discharge summary was issued by the Government Hospital, Ambur for the said claimant/Adimoolam, wherein it is stated that the claimant/appellant had taken treatment as an in-patient on 26.06.2004 to 03.07.2004 for the injuries sustained in the above said road accident that took place on 26.06.2004.

8. Taking into consideration the evidence of PW.1/the injured claimant, coupled with the medical evidence of Doctor, i.e., Ex.P2 issued by the Government Hospital, Ambur, this Court is of the considered view that the claimant proved the factum of the accident that had happened on 26.06.2004 at about 1.45 pm, at Pachchakuppam Railway Gate on M.C.Road, and also considering the above said facts emanated from the evidence of the claimant/PW.1 and eye witness/PW.2 and the injuries are sustained due to the accident, this Court awards a total consolidated amount compensate of Rs.25,000/- to the claimant and the same is directed to be deposited by the Transport Corporation.

9. In the result, the Civil Miscellaneous Appeal is allowed to the extent indicated above.

(i) The respondent/Transport Corporation is directed to deposit the award amount of Rs.25,000/- from the date of claim petition and till the date of payment along with interest at the rate of 7.5% per annum, within a period of twelve weeks from the date of receipt of a copy of this Judgment.

(ii) On such deposit being made, the claimant is permitted to withdraw the compensation amount as awarded by this Court, by way of filing necessary petition before the Tribunal.

(iii) There shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

klr
To

1. The Motor Accident Claims Tribunal Sub-Court,
Tirupattur, Vellore District.



2. The Section Officer,

V.R. Section, High Court, Madras - 104.

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+1cc to Mr.D.Venkatachalam, Advocate Sr.47633

+1cc to M.Malar, Advocate Sr.47596

C.M.A.No.1248 of 2011

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srg 16/10/2019