

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.02.2019
CORAM:
THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN
C.M.A.No.1268 of 2011 and
M.P.No.1 of 2011

The Managing Director,
Tamil Nadu State Transport Corporation,
12, Ramakrishna Road,
Salem.

...Appellant/Respondent

vs.

Venkatachalam

...Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 16.07.2010, in M.C.O.P.No. 227 of 2008, on the file of the Motor Vehicles Accidents Claims Tribunal, Chief Judicial Magistrate Court, Namakkal.

For Appellant : Mr.V.Ramesh

For Respondent : Mr.A.R.Suresh

JUDGMENT

This Civil Miscellaneous Appeal is filed by the Tamil Nadu State Transport Corporation, challenging, the Judgment and decree passed in M.C.O.P.No. 227 of 2008 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Namakkal.

2. The brief case of the respondent/claimant is as follows:

On 30.04.2007, at about 03.00 pm, the injured was riding his cycle along Namakkal - Thiruchengode main road, opposite to Manickampalayam Government Higher Secondary School. At that time, a Government Bus bearing Registration No. TN 30 N 0270, belonging to the present appellant, hit him, as a result of which, he sustained grievous injuries all over his body. According to the respondent/claimant, the rash and negligent driving of the driver of the said Government Bus was the cause of the accident, and therefore, Tamil Nadu State Transport Corporation is liable to pay compensation of Rs.5,00,000/- to him.

3. The learned Tribunal, after analysing the evidence on record, awarded a compensation of Rs.2,80,890/- together with interest at the rate of 7.5% per annum to the respondent/claimant. Aggrieved over the quantum of compensation awarded by the Tribunal, Tamil Nadu State Transport Corporation have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Heard both sides.

5. A perusal of records shows that the injured (Venkatachalam) has examined himself as PW1 and deposed that after the accident he was unable to climb the trees, unable to do the usual agricultural work. He further stated that due to the injuries sustained in the accident, there were two fractures in his right hand and four of his ribs were broken. Dr.Sivalingam (PW2), who has given treatment to the injured has stated that, he is unable to rotate or turn both of his hands as well as unable to climb the trees. Furthermore, he is not able to lift any material. In addition to that he has breathing problem. In view of the fact that the rib bones 4, 5, 6 and 7 are broken and the lungs has suffered some loss of capacity, it can be concluded that his breathing problem will be there for his life time.

6. Taking into consideration, the medical evidence of Dr.Sivalingam (PW2), Ex.P2 and Ex.P4, the tribunal has assessed the disability at 30%. The respondent/claimant was taking treatment as an inpatient for 11 days. As per the documents produced before this Court, all the three injuries suffered by the respondent/claimant are grievous in nature. Since, the claimant was 45 years old, the Tribunal after considering various aspects, like the nature of the injuries sustained by the appellant/claimant, the fact that the ribs bones 4, 5, 6 and 7 are broken and malunited, lungs has suffered some loss of capacity, he was unable to do his usual work because of the fracture in the wrist, treated the disability as functional disability and such a finding by the Tribunal on the basis of the documentary evidence does not warrant any interference. Accordingly the monthly income of the respondent/ claimant is fixed at Rs.4000/- and the multiplier of 15 is correctly adopted. I do not find any merits on the contentions of the learned counsel appearing for the appellant. In view of the above, the plea raised by the appellant stands negative.

7. In the result,

- (i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.
- (ii) The order passed by the Tribunal is upheld.
- (iii) The present appellant - Tamil Nadu State Transport

Corporation is directed to deposit the entire compensation awarded by the Tribunal (if not already deposited), along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No. 227 of 2008, dated 16.07.2010, on the file of the Motor Vehicles Accidents Claims Tribunal, Chief Judicial Magistrate Court, Namakkal within a period of twelve weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the respondent/claimant is permitted to withdraw the entire amount after following the due process of law.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mbi/rna

To

The Motor Accidents Claims Tribunal,
The Chief Judicial Magistrate,
Namakkal.

Copy to:

The Section Officer,
V.R Section,
High Court, Madras

+1cc to Mr.A.R.Suresh, Advocate sr.13320

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