

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No. 2305 of 2010 and
M.P.No.1 of 2010

The Managing Director,
Tamil Nadu State Transport corporation Ltd.,
Coimbatore Division,
No.37, Mettupalayam Road,
Coimbatore.

.... Appellant /2nd Respondent

Vs

1. Rajeswari1st Respondent/Petitioner

2. Mani
(R2- Driver Given up)2nd Respondent/First Respondent

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act,1988 to set aside the fair and decreetal orders dated 22.10.2007 passed in M.C.O.P.No.22 of 2007, by the learned Chief Judicial Magistrate, Motor Accident Claims Tribunal, Coimbatore and to dismiss the petition.

For Appellant : Mr.S. Swaminathan

For Respondent 1 : Mr.S.Gunalan for
M/s P. Indumathi

R2 : Given up

JUDGMENT

In respect of an accident that took place on 22.08.2004 at 08:15 p.m in Canal Privu, N.H.Road, Puduseery East, the legal representative of the deceased Krishnan (a) P. Sasi Kumar has filed a petition in M.C.O.P.No. 22 of 2007 before the Claims Tribunal, seeking compensation of Rs. 3,50,000/-

2. The Tribunal based on the materials available on record has awarded a sum of Rs. 2,28,000/- as compensation. Branding the award as excessive and exorbitant to the income of the deceased, this Appeal is preferred by the appellant / Transport Corporation.

3. Heard both sides.

4. The learned counsel for the appellant / Transport Corporation submitted that the fastening liability on the appellant, merely based on the F.I.R and charge sheet is incorrect; in any event the award quantified at Rs.2,28,000/- is on the higher side, which needs consequent reduction.

5. Per contra the learned counsel for the claimant/first respondent submitted that the Tribunal has passed the award based on the weightage of evidence and preponderance of probabilities which does not require any interference.

6. This Court considered the rival submissions and perused the materials available on record.

7. The Tribunal while fastening the liability on the Bus driver has taken into consideration Exs.P2 to P.6 and observed that the preponderance of probability lies on the appellant's Bus driver and ultimately concluded that the accident had happened due to rash and negligent driving of the driver of the bus.

8. This Court, sitting at the appellate stage, cannot re-appreciate the facts and evidence once again. Since, the finding on negligence was based on evidence available on record, this Court finds absolutely no merits in the grounds agitated by the appellant herein. Further, no contra evidence or document was let in by the appellant herein to prove their case against the claimant, whereas the claimant has produced all the materials to prove the probabilities of the case. That apart, the evidence also corroborates with the contents in the FIR and other documents produced by the claimant before the Tribunal. In the absence of any contra evidence, this Court cannot conclude that the appellant's bus driver was not at fault.

9. As far as the quantum of compensation, is concerned, the Tribunal has taken the monthly income only at Rs.1,000/-, adopted the multiplier of 18 and ultimately awarded the compensation under the head "loss of income" at Rs.2,16,000/- which in the considered view of this Court, is based on the II Schedule of Motor Vehicles Act, 1988 and hence the same does not call for any interference.

10. Further, the compensation awarded under the other heads are also on conventional methodologies which does not require

any interference. Hence, this Court finds no reason to reduce the quantum so arrived at by the Tribunal.

11. In the result, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal stands dismissed.

12. The appellant/ Transport Corporation is directed to deposit the compensation amount, as directed by the Claims Tribunal, along with interests and costs, less the amount already deposited if any, within a period of four weeks from the date of receipt of the copy of this Judgment. On such deposit being made, the Tribunal shall transfer the said sum to the Savings Bank Account of the first respondent herein / claimant, within one week, thereafter through RTGS. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

srk / smn

To

The learned Chief Judicial Magistrate,
Motor Accident Claims Tribunal. Coimbatore.

Copy to

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

+1cc to Mr.S.S.Swaminathan, Advocate Sr.54337
+1cc to Mr.P.Indumathi, Advocate Sr.54406

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