

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.2477 of 2009
and
M.P.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation,
Kancheepuram. ... Appellant/Respondent
..vs..

R.Gnanaprakasam ... Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 05.11.2008 made in M.C.O.P.No.63 of 2003 on the file of the Motor Accident Claims Tribunal, Sub Judge, Cheyyar.

For Appellant : Mr. S.V.Vasanth Kumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Tamil Nadu State Transport Corporation, challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal.

2.The case of the respondent / claimant is that on 23.11.2002 at about 07.30 a.m., when he was travelling as a passenger in the appellant/Transport Corporation bus bearing Registration No.TN 21/N 0526, on the Cheyyar - Kancheepuram Main Road, Palli Village, due to the rash and negligent driving of its driver, the vehicle met with an accident. Due to the same, the claimant suffered grievous injuries. He filed a claim petition claiming a sum of Rs.5,00,000/- as compensation. As against the said claim, the Tribunal has awarded a sum of Rs.74,222/- as total compensation with interest at the rate of 7.5% per annum from the date of petition. Challenging the same, the appellant/Tamil Nadu Transport Corporation has filed the present Appeal.

3.Heard the learned counsel for the appellant. Despite notice being ordered, the respondent has not been served till date. However, the Appeal itself is taken up for final disposal, considering the paucity of time.

4.The learned counsel for the appellant / Transport Corporation has submitted that the negligence fixed on the appellant's bus driver by the Tribunal is incorrect, since the

documents produced by the claimant himself show that the driver is not at fault; in any event, the award passed by the Tribunal is exorbitant and needs significant reduction.

5.The Tribunal, based upon the evidence of P.W.1-claimant and Ex.P-1, coupled with other ancillary materials, has fastened the liability on the appellant / Transport Corporation bus driver. To controvert the same, nothing is forthcoming on the side of the appellant herein. In the absence of any contra evidence or documents produced on the side of the appellant Transport Corporation in this connection, the Tribunal fastened the liability on the appellant herein, which in the opinion of this Court, is perfectly justified. Hence, the findings on negligence by the Tribunal are confirmed as such.

6.As far as the quantum of compensation is concerned, the Tribunal based upon facts, materials, evidence and documents, more particularly, Ex.P-2-wound certificate and Ex.P-3-Medical Bills has awarded a sum of Rs. 20,000/- towards severe injuries and Rs.3,000/- towards simple injuries. Further, the tribunal has awarded a sum of Rs.5,000/- towards pain and suffering, Rs.5,000/- towards transport expenses, Rs.1,222/- towards Medical expenses and Rs.40,000/- towards 40% disability fixed by P.W.2-Doctor by issuing Ex.P12-Disability Certificate.

7.This Court is of the opinion that the compensation awarded under all the heads by the Tribunal are reasonable, weight of evidence and based on settled principles of law and further, the same are found to be just, fair and reasonable and hence, there is no ground to interfere with the judgment passed by the Tribunal below in this respect.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. 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 respondent / claimant is permitted to withdraw the same on making proper application before the Tribunal. Consequently, the connected MP is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

To

1. Motor Accident Claims Tribunal, Sub Judge, Cheyyar.

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

C.M.A.No.2477 of 2009

PA (CO)
GMV (21/07/2020)