

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.2581 of 2009
and M.P.No.1 of 2009

State Express Transport Corporation,
Rep. by Managing Director,
Salem, Division - 1,
office at 12, Ramakrishna Road,
Salem.

... Appellant/Respondent

..vs..

Vasantha

... Respondent/Claimant

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree, dated 04.04.2008 made in O.P.No.1045 of 2004 on the file of the Motor Accident Claims Tribunal, Additional District Judge, FTC No.1, Salem.

For Appellant : Mr. V.Ramesh

JUDGMENT

Challenging the quantum of compensation awarded by the Tribunal, the Transport Corporation has filed this Civil Miscellaneous Appeal.

2.The case in brief is as follows:

On 03.04.2004, at about 10.00 a.m, the respondent/claimant was travelling as a passenger in the appellant Transport Corporation bus bearing registration No.TN27-N-0562. When the bus was plying on Rasipuram to Pattanam Road, near Periasamy Tea stall, without noticing that the respondent/claimant was standing in the steps of the bus, the driver started the bus rashly and negligently, on account of which, the respondent/claimant fell down and sustained grievous injuries in her right leg and multiple injuries all over her body. Stating that the accident had occurred due to the rash and negligent driving of the driver of the bus, she filed a claim petition claiming a compensation of Rs.5,00,000/- as compensation. The Tribunal, after analysing the oral and documentary evidence, awarded a total compensation of Rs.1,07,945/- with interest at 7.5%pa from the date of petition.

Aggrieved over the same, the appellant Transport Corporation is before this Court with the present appeal.

3.The learned counsel for the appellant has disputed only the quantum of compensation awarded by the Tribunal. According to him, the Tribunal erred in awarding a huge sum of Rs.52,800/- for 30% disability by adopting the multiplier method. Hence, the quantum so awarded has to be reduced substantially.

4.Heard the learned counsel for the appellant and perused the materials available on record.

5.Though this appeal was admitted way back in the year 2009, the appellant Transport corporation has not taken proper steps to serve notice on the respondent/claimant even at this length of time. However, considering the passage of time, this Court is inclined to proceed with the appeal on merits.

6.Since the appellant Transport Corporation has not disputed the manner in which the accident took place, the finding of the Tribunal that the accident had occurred only due to the rash and negligent act on the part of the driver of the bus, need not be interfered with by this Court.

7.As regards the quantum of compensation, the respondent/claimant was examined as P.W.1, who stated in her claim statement that she was aged about 50 years and was earning Rs.4,000/- per month as a tailor; but no authenticated document was produced to prove the same; and in the accident, she sustained grievous injuries in her right leg, apart from other injuries all over the body. The Doctor, who had given Ex.P7-disability certificate at 30% to the respondent/claimant, was examined as P.W.2, who supported the evidence of P.W.1 with regard to the injuries sustained by the respondent/claimant. Taking into account those oral and documentary evidence, the Tribunal has fixed the monthly income of the respondent/claimant at Rs.2,000/- and arrived at the annual income at Rs.24,000/- and after deducting 1/3rd towards personal expenses and adopting the multiplier of 11, quantified the compensation under the head "loss of income" at Rs.52,800/- for 30% disability [16,000/- x 11 x 30%], besides awarding Rs.10,000/- towards pain and suffering, which are just and reasonable and the same are hereby confirmed.

8.That apart, the Tribunal has awarded Rs.35,145/- towards medical expenses, as per Ex.P5 medical bills, which is the actual expenses incurred by the respondent/claimant and hence, the same is hereby confirmed. Further, the award of

Rs.10,000/- towards transport charges is fair and reasonable and the same warrants no interference by this Court.

9.Thus, this Court finds no good reason to interfere with the award so passed by the Tribunal.

10.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Transport corporation is directed to deposit the entire compensation amount, along with interest and costs, as awarded by the 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 Tribunal is directed to transfer the amount lying in the deposit to the Savings Bank Account of the claimant / respondent through RTGS, one week thereafter. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal,
Additional District Judge, FTC No.1, Salem.
2. The Section Officer, V.R.Section,
Madras High Court, Chennai 104.

AKM/24.02.2020/3P-3C /

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