

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated :25.03.2019
CORAM:
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
CMA No.2853 of 2010

The Managing Director,
Tamil Nadu State Transport
Corporation, Division No.1, Kumbakonam

... Appellant/Respondent

Versus

R. Vivek

... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 to set aside the Judgment and Decree dated 31.01.2007 made in M.C.O.P.No. 144 of 2005 on the file of the Motor Accident Claims Tribunal, Additional Subordinate Judge), Mayiladuthurai.

For Appellant : Mr.N. Anand

For Respondent : Mr.R. Ravi
Legal Aid Counsel

JUDGMENT

The present appeal is filed by the State Transport Corporation against the Judgment and Decree dated 31.01.2007 in M.C.O.P.No.144 of 2005 on the file of the Motor Accident Claims Tribunal, Additional Subordinate Judge, Mayiladuthurai.

2. Back ground facts in a nutshell are as follows:

On 05.10.2004 the respondent herein was waiting in the Mayiladuturai Bus stand to go to A.V.C. College. At that point of time Tamil Nadu State Transport Corporation Bus bearing Registration No.TN 49-N-0765 came to the Bus stand and the respondent also stepped into the bus. The driver of the bus was not vigilant, whether all the passenger have entered into the bus and started the bus. Hence, the respondent herein fell down from the bus and he was thrown into the road. Hence, he filed M.C.O.P.No.144 of 2005 on the file of Motor Accident Claims Tribunal, Additional Subordinate Judge, Mayiladuthurai, seeking compensation for a sum of Rs. 10,00,000/- with interest.

3.The claim made by the respondent was resisted by the Transport Corporation. On pleading, the following issues were framed by the Tribunal.

a. Whether the accident occurred due to the rash and negligence on the part of the driver of the bus?

b. Whether the claimant in M.C.O.P.No.144 of 2005 is entitled to get compensation? If so what amount.

4. Aggrieved over the same the Transport Corporation have come up with this appeal.

5. The learned counsel for the appellant would contend that the Tribunal awarded compensation under the head permanent disability as well as loss of income in two separate heads but virtually it amounts to one and the same and the amount awarded under other heads was also very exorbitant. Hence, prays to allow this appeal.

6. The learned counsel appearing of the claimant would contend that the Tribunal had considered all the relevant materials and evidence and arrived at the correct conclusion and awarded a just, fair and reasonable compensation. Hence the order passed passed by the Tribunal is in accordance with law.

7. Heard both sides.

8. It is also seen from records that in the Tribunal, on behalf of the claimant 2 witnesses and documents Ex.P1 to P.10 were marked. On the side of the respondents, neither oral nor documentary evidence was adduced.

9. Before the Tribunal the claimant examined himself as PW.1 and Doctor/Mr.Vivek was examined as PW.2. The following are the exhibits marked before the Tribunal.

- Ex.P1. is the original F.I.R.
Ex.P.2 Investigation report produced by the
Inspector of Motor Vehicle Inspector
Ex.P.3 Original Discharge summary
Ex.P.4. Photo of the claimant
Ex.P.5. Transport expenses receipts.
Ex.P.6. Quotation for fixing artificial leg
Ex.P.7. Duplicate Medical receipts
Ex.P.8 Duplicate Medical receipts
Ex.P.9 Disability Certificate
Ex.P.10. X-ray

10. After considering the above oral and documentary evidence the Tribunal came to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the bus and awarded a compensation of Rs.5,73,500/-.

11. Therefore, this Court is of the view that the Tribunal has applied its mind and awarded compensation properly, which do not warrant interference by this Court.

12. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has awarded a just and fair compensation, which need not be interfered with by this Court in this appeal filed by the Insurance Company and hence the negligence on the part of the driver of the van belonging to the second respondent and the quantum of compensation assessed by the Tribunal, cannot be said to be improper.

13. In the result this Court is inclined to pass the following order:

a) this Civil Miscellaneous appeal is dismissed and the Judgment passed in M.C.O.P.No.144 of 2005 is confirmed.

(b) the appellant/Transport corporation is directed to deposit the entire award amount with 7.5% interest within a period of 8 weeks from the date of receipt of copy of this Judgment.

(c) On such deposit being made, it is open to the claimant to make necessary application to withdraw the same.

(d) No costs. Connected M.P. is closed.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal
(Additional Sub Judge) at Mayiladuthurai.

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

+1cc to Mr.R.Ravi, Advocate sr.28838

CMA No.2853 of 2010
and
M.P.No.1 of 2010

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