

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.313 of 2009 and
M.P.No.1 of 2009

Metropolitan Transport Corporation Ltd.,
represented by its Managing Director,
No.2, Pallavan Salai,
Chennai 600 002. Appellant/Respondent

Vs.

G.Karunanidhi Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 22.02.2008 made in MCOP No.2376 of 2004 on the file of the Motor Accident Claims Tribunal, 3rd Small Causes Court, Chennai.

For Appellant : Mr.S.S.Swaminathan

J U D G M E N T

This appeal is preferred by the Transport Corporation as against the award dated 22.02.2008 passed by the Claims Tribunal in MCOP No.2376 of 2004, wherein, a compensation of Rs.95,000/- was arrived at by the Tribunal, which was payable by the appellant herein to the respondent/claimant.

2. The breakup details of such compensation read thus:-

Medical expenses	-	Rs. 2,000
Transportation expenses	-	Rs. 2,000
Extra nourishment	-	Rs. 2,000
Damage to cloths/ personal materials	-	Rs. 2,000
Loss of earning	-	Rs. 16,000
permanent disability	-	Rs. 30,000
For other expenses	-	Rs. 1,000
Pain and suffering	-	Rs. 20,000
Loss of amenities	-	Rs. 10,000
Loss of expectation of life	-	Rs. 10,000

Total	-	Rs. 95,000/-

3. The case in brief, is as follows:-

On 25.04.2004 at about 7.10 p.m., when the respondent/claimant was riding his motorcycle bearing Registration No.TN-07-Q-0345 in the 100 feet Road near Tharamani, the bus bearing Registration No.TN-01-N-2193 belonging to the appellant Transport Corporation came in a rash and negligent manner and dashed against the respondent/claimant. Due to the said impact, the claimant/ respondent sustained grievous injuries. He filed a claim petition for compensation before the Tribunal. The Tribunal based on the materials available on record, has awarded Rs.95,000/- with interest at the rate of 12% per annum from the date of petition. Challenging the same, this appeal has been preferred by the Transport Corporation.

4.Heard the learned counsel for the Appellant/Transport Corporation and perused the materials available on record.

5.Despite ordering notice for more than a couple of occasions, the respondent has not been served till date. However, due to paucity of time, this appeal itself is taken up for final disposal, on merits.

6.The learned counsel for the Appellant/Transport Corporation has submitted that the Tribunal has erred in holding that the appellant's bus driver was negligent and was responsible for the accident. He further submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

7.Placing reliance on Ex.P.2-FIR and the evidence of PW.1-claimant and the rough sketch produced, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation, which finding this Court is not inclined to interfere, since, there is no contra evidence adduced on the side of the appellant herein.

8. As regards the quantum of compensation awarded by the Tribunal, PW.1/respondent/claimant has deposed in his evidence that at the relevant point of time, when he was riding the motorcycle bearing Registration No.TN 07-Q-0345 in the 100 feet

Road near Tharamani, the bus belonging to the appellant Transport Corporation came in a rash and negligent manner from the opposite direction and dashed against the said vehicle and due to the said impact, the respondent/claimant sustained fractures in his right knee, ankle, contusion over left shoulder, head injury and dislocation over right elbow and other injuries all over his body and immediately he was taken to the Government Royapettah Hospital and a OP Chit was issued, which is marked as Ex.P1. Further, the respondent/claimant took treatment as outpatient for six months and he was bedridden. During that period also, he was not able to stand or walk freely due to sustaining fractures in his right leg. His right leg was shortened by 2 inches and he could not climb the stairs and ride any vehicle. Now, he is not able to do his job as a painter as before. Ex.P2 is the copy of the FIR registered against the bus driver. Further, PW.2 Dr.J.R.R.Thiagarajan examined the respondent/ claimant on 21.12.2007 and fixed the percentage of disability of the claimant at 30% and he issued Ex.P3-disability certificate to that effect.

9. Based on the above evidence and documents, the Tribunal has awarded a sum of Rs.2,000/- towards medical expenses, Rs.2,000/- towards transport expenses, Rs.2,000/- towards extra nourishment, Rs.2,000/- towards damage to clothes/personal materials, Rs.16,000/- towards loss of earning, Rs.30,000/- towards permanent disability, Rs.1,000/- for other expenses, Rs.20,000/- towards pain and suffering, Rs.10,000/- towards loss of amenities and Rs.10,000/- loss of expectation of life. This Court is of the view that the Tribunal has considered all the materials and evidence properly and has awarded the compensation towards the above heads and the same need not be interfered with by this Court.

10. At this juncture, the learned counsel for the Appellant/Transport Corporation submitted that the appellant herein cannot be saddled with the interest at the rate of 12% per annum from the date of petition till the date of deposit.

11. This Court finds considerable force in the said submission made by the learned counsel for the appellant. Hence, the interest portion alone is reduced to 7.5% from 12% to be payable by the appellant to the respondent herein from the date of petition till the date of deposit.

12. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected Miscellaneous

Petition is closed. The Appellant/Transport Corporation is directed to deposit the entire compensation amount, as awarded by the claims Tribunal, along with 7.5% interest from the date of petition till the date of deposit, 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.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The III Judge,
Motor Accident Claims Tribunal,
3rd Small causes Court,
Chennai.
2. The Section Officer,
V.R. Section, High Court, Madras.

+1cc to M/s.S.S.Swaminathan, Advocate Sr.64893

C.M.A.No.313 of 2009 and
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