

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1329 of 2013 and M.P.No.1 of 2013
and
Cros.Obj.No.86 of 2013

C.M.A.No.1329 of 2013:

The Managing Director,
Tamil Nadu State Transport Corporation
Vellore-9.

... Appellant

Vs

1.Kumaran

2.Sekar

3.The Divisional Manager,
The New India Assurance Co.Ltd.,
No.1, Officer's Line, Vellore.

... Respondents

Cros.Obj.No.86 of 2013:

Kumaran

... Cross Objector

Vs

1.The Managing Director,
Tamil Nadu State Transport Corporation,
Vellore.

2.Sekar

3.The Divisional Manager,
The New India Assurance Co.Ltd.,
No.1, Officer's Line, Vellore.

... Respondents

Appeal under Section 173 of the Motor Vehicles Act and Cross Objection under Order 41 Rule 22 of CPC, filed against the judgment and decree dated 04.06.2007 made in MCOP No.285 of 2003 on the file of the Motor Accidents Claims Tribunal (Principal Subordinate Judge), Tiruvannamalai.

For Appellant : Mr.V.Ramesh
in CMA and R1
in Cros.Obj.

For R1 in CMA : Ms.M.Malar
and Cross Objector

For R2 in both CMA : Mr.S.Kumaradevan
and Cros.Obj.

For R3 in both CMA : No appearance
and Cros.Obj.

COMMON JUDGMENT

The facts in brief, are as follows:

On 01.12.2000, at about 11.30 a.m., the first respondent in the CMA / Cross Objector, was travelling in the Tractor bearing Reg.No.TN-25-C-2773 belonging to the second respondent in the CMA / Cros.Obj. as a labourer, on the Chengam Singarapettai Road. When the tractor reached near Narikuravar Colony, the bus bearing Reg.No.TN-23-N-1384 belonging to the appellant Transport Corporation came from Tiruvannamalai towards Singarapettai in a rash and negligent manner and dashed against the tractor in which the first respondent in the appeal, was travelling. Due to the said impact, the first respondent in the appeal/Cross Objector and others who have travelled in the tractor, sustained injuries. The first respondent/injured in the appeal, filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.30,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the Transport Corporation has filed the appeal and the injured claimant has filed the Cross Objection.

4.The learned counsel for the appellant Transport Corporation / 1st respondent in Cros.Obj., has submitted that the accident took place only due to the negligence on the part of the tractor driver. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.The learned counsel for the first respondent/claimant in the appeal / Cross Objector, has submitted that the Tribunal has failed to consider the injuries sustained by the injured in awarding the compensation. It is submitted that the Tribunal ought to have awarded compensation under the heads of 'mental

agony', 'attender charges', 'future medical expenses' and 'extra nourishment'. Stating so, the learned counsel prayed for enhancement of compensation.

6. Heard the learned counsel for the parties and perused the materials and evidence available on record, carefully and meticulously.

7. With regard to the liability, considering the materials and evidence available on record, 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, since the bus was overtaking the tractor at the relevant point of time. This Court is not inclined to interfere with the said finding rendered by the Tribunal.

8. With regard to the quantum of compensation awarded by the Tribunal, it is seen that the Tribunal has awarded a meagre amount of Rs.25,000/- towards future damages upon considering the grievous injuries and Rs.5,000/- towards medical expenses, mental agony and loss of income. Considering the materials available on record, this Court finds from Ex.P3-Wound Certificate that the injuries are grievous in nature. Further P.W.2-Doctor has certified the disability of the injured as 35% through Ex.P4, but the Tribunal has not awarded any amount towards that head. Considering the injuries sustained and the disability suffered by the claimant, this Court is of the considered opinion that awarding a sum of Rs.35,000/- towards permanent disability at the rate of Rs.1,000/- per percentage of disability, in addition to the amount awarded by the Tribunal, would meet the ends of justice.

9. Accordingly, the details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Future damages	25,000/-
Medical expenses, mental agony and loss of income	5,000/-
Permanent disability	35,000/-
TOTAL...	65,000/-

10.Thus, the injured claimant is entitled to the modified compensation of Rs.65,000/-. However, it is made clear that only for the compensation of Rs.30,000/- awarded by the Tribunal, the interest of 7.5% per annum shall be calculated from the date of claim petition. The interest of 7.5% per annum for the additional amount now granted by this Court, ie., Rs.35,000/- shall be calculated from the date of filing of this appeal.

11.The Civil Miscellaneous Appeal and Cross Objection are disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Transport Corporation is directed to deposit the modified compensation as ordered above, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same, on making proper application before the Tribunal.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

KM
To

1.The Motor Accidents Claims Tribunal
Principal Subordinate Judge, Tiruvannamalai.

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

+1 CC to Ms.M.Malar, Advocate sr 6763..
+1 CC to Mr.S.Kumaradevan, Advocate sr 67501.

C..M.A.No.1329 of 2013
and M.P.No.1 of 2013
and
Cros.Obj.No.86 of 2013

SS(CO)
SP(02/03/2020)

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