

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.348 of 2009

and

M.P.No.1 of 2009

Tamil Nadu State Transport
Corporation Ltd.,
Rep. by its Managing Director
Salem.

... Appellant/Respondent

Vs.

R.Raja

.. Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 10.01.2003 made in M.C.O.P.No.244 of 2001 on the file of the Motor Accident Claims Tribunal, Salem.

For Appellant : M/s.R.Arunmozhi

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/Transport Corporation against the award of a sum of Rs.1,17,500/- to the respondent/claimant for the injuries sustained by him in a motor vehicle accident.

2.The facts of the case are that on 17.10.2000 about 06.15 p.m., while the respondent/claimant was travelling as pillion rider in a TVS Suzuki motorcycle bearing Regn.No.TN-27-N-5230, a Transport Corporation Bus bearing Registration No.TN-27-N-1318 came in a rash and negligent manner and hit the motor cycle from behind. Due to the said impact, the respondent was thrown out from the vehicle and sustained grievous injuries, for which, he filed a claim petition claiming a sum of Rs.1,17,500/- as compensation.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident had occurred due to the rash and negligent driving of the driver of the bus and hence, directed the appellant/Transport Corporation to pay a sum of Rs.1,17,500/- as compensation to the respondent/claimant. Aggrieved over the same, the appellant/Transport Corporation has come out with the present appeal.

4.The learned counsel for the appellant/Transport Corporation submitted that the Tribunal ought to have held that the accident happened only due to the carelessness of the pillion rider, when he fell down from the vehicle. He further submitted that the compensation awarded by the Tribunal is excessive and exorbitant and the same has to be reduced substantially.

5.Heard the learned counsel for the appellant and perused the records carefully and meticulously.

6.The Record of proceedings would disclose that batta with petition is due in respect of the respondent. Even though this appeal was admitted way back in the year 2009, the appellant/Transport Corporation has not taken proper steps to serve papers to the respondent, even at this length of time. However, considering the fact that the appeal is of the year 2009, this Court is inclined to proceed with the appeal on merits.

7.There is no dispute with regard to the date on which the accident occurred. According to the appellant Transport Corporation, the respondent himself was responsible for the accident. On the contrary, the respondent/claimant as P.W.1 and the rider of the motor cycle as P.W.3 have categorically stated in their evidence that the accident caused due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation. Their testimonies were corroborated by Ex.P1-FIR, Ex.P4-Motor Vehicle Inspector's Report, Ex.P5-charge sheet and Ex.P6-criminal court judgment. Though the driver of the bus was examined as R.W.1, no concrete material was produced to prove his statement that the accident had occurred due to the fault on the part of the respondent/claimant. Therefore, the Tribunal, based on the available evidence and materials, has concluded that the accident happened due to the rash and negligent driving of the driver of the bus, which finding this Court is not inclined to interfere.

8.As regards the quantum of compensation awarded by the Tribunal, PW1/respondent/claimant deposed that he was earning a sum of Rs.5,000/- per month by working as a Manager in Shevaroy's

Coffee Planters Curing Company; and due to the injuries sustained in the accident, he could not do his work as before. But, he did not let in any evidence to prove the same. Hence, the Tribunal has fixed the income of the injured at Rs.3,000/- per month. P.W.2/Doctor deposed that the respondent/claimant sustained grievous injuries on the right head, fracture in right elbow and crush injury in left leg big finger; and plate was inserted to set right the fracture in right elbow. The doctor assessed the disability of the respondent/claimant at 25% and issued Ex.P10 disability certificate. However, the Tribunal has taken the disability of the claimant at 15%. Taking note of the age of the injured, the Tribunal has adopted the multiplier of 15 and determined the loss of income at Rs.81,000/- (Rs.3,000/- X 12 X 15 X 15/100), which is fair and reasonable and the same is hereby confirmed. The Tribunal has also awarded Rs.5,000/- towards pain and suffering, Rs.5,000/- towards extra nourishment, Rs.1,000/- towards transportation, Rs.500/- towards damage of clothes and Rs.25,000/- towards medical expenses. The amounts so awarded by the Tribunal under the above heads are just and reasonable and hence, the same need not be interfered with by this Court.

9. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant/Transport Corporation is directed to deposit the award amount along with interest and costs, 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 shall transfer the same to the savings bank account of the respondent/claimant through RTGS, within a period of one week thereafter.

Sd/-

Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

gbi

To

1. The Judge,
Motor Accident Claims Tribunal,
Salem.

Copy To: The Section Officer,
VR Section, High Court, Madras.

+lcc to Mr..R.Arunmozhi, Advocate SR.No.67485

C.M.A.No.348 of 2009
and
M.P.No.1 of 2009

KK (CO)
GMY (28/02/2020)



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