



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15.11.2019
CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1376 of 2015
and M.P No.1 of 2015

The Managing Director
Tamilnadu State Transport Corporation,
Tiruvannamalai Division,
Tiruvannamalai.

... Appellant

Vs

Gengan

... Respondent

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Accident Claims Tribunal (Subordinate Judge), Cheyyar in MCOP No.134 of 2008 dated 19.02.2014.

For Appellant : Mr.K.J.Sivakumar

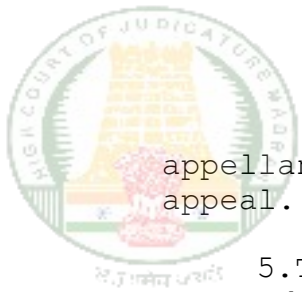
J U D G M E N T

This Civil Miscellaneous Appeal is filed against the judgment and decree passed by the Motor Accident Claims Tribunal (Subordinate Judge), Cheyyar in MCOP No.134 of 2008 dated 19.02.2014.

2.The respondent/claimant filed M.C.O.P.No.134 of 2008 on the file of the Motor Accident Claims Tribunal, Sub Court, Cheyyar claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in an accident that took place on 17.01.2008.

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 belonging to the appellant and directed the appellant to pay a sum of Rs.1,16,000/- with interest at the rate of 7.5% per annum from the date of petition, as compensation to the respondent/claimant.

4.Questioning the liability fastened on them as well as the quantum of compensation awarded by the Tribunal, the



appellant / Transport Corporation has come up with the present appeal.

5. The learned counsel appearing for the appellant has contended that no such accident alleged to have happened on the date of accident had taken place and that a false FIR has been registered against the driver of the bus. The Criminal Case registered against the driver of the bus in C.C.No.140 of 2008 has ended in acquittal. On the other hand, it is submitted that in the absence of any material evidence, the monthly income of the respondent fixed by the Tribunal is without any basis. Ex.P2 - Accident Register would reveal that the respondent took treatment only as out-patient and that the Disability Certificate issued by PW2-Doctor is highly exaggerated. It is also submitted that in any event, the amounts awarded by the Tribunal under various heads are on the higher side and hence this appeal has to be allowed.

6. Even though this appeal has been admitted by this Court way back in the year 2015, no steps have been taken by the appellant to serve papers to the other side, even at this length of time.

7. Heard the learned counsel appearing for the appellant/Transport Corporation and perused the materials available on record.

8. From the materials available on record, it is seen that no contra evidence has been adduced on the side of the appellant to disprove the deposition of P.W.1-injured, that the accident had occurred only due to the rash and negligent driving of the driver of the appellant's bus. The Tribunal, after analysing the oral and documentary evidence, especially Ex.P1-FIR registered against the driver of the bus which is corroborated by the evidence of PW1, has rightly come 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 and directed the appellant to pay compensation to the respondent. This Court is not inclined to interfere with the said factual finding rendered by the Tribunal.

9. With regard to the quantum of compensation, the Tribunal has relied upon the exhibits, evidence of witnesses, treatment records, percentage of disability assessed by the Doctor and all other aspects in a proper perspective and has awarded the compensation under various heads to the respondent/claimant. Further, this Court is of the considered view that the amounts awarded towards various heads are reasonable and justifiable and hence the same are confirmed.



10. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed. The appellant/Transport Corporation is directed to deposit the entire compensation awarded by the Tribunal, along with interest and costs, less 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 being made, the respondent / claimant is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rgr/km
To

1. The Subordinate Judge,
Motor Accident Claims Tribunal,
Cheyyar.

2. The Record Keeper,
V.R. Section,
High Court,
Chennai.

+1cc to Mr.K.J.Sivakumar , Advocate SR.No. 95340
C.M.A.No.1376 of 2015
and M.P.No.1 of 2015

A.SK(24/07/2020)