

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1039 of 2012
and M.P.No.1 of 2012

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.
Villupuram, Kancheepuram. ... Appellant /Respondent

Vs

Bhaskar ... Respondent/Petitioner

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.12.2010 made in MCOP No.526 of 2008 on the file of the Motor Accidents Claims Tribunal, Principal and Sessions Court (Fast Track Court No.2), Poonamallee.

For Appellant : Mr.S.V.Vasanthakumar

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.1,40,293/- towards compensation to the respondent, due to the injuries suffered by him in a motor vehicle accident.

2.The case in brief, is as follows:

On 14.07.2008 at about 3.00 p.m., the respondent was riding his two-wheeler bearing Reg.No.TN-09-U-4461 to go to K.K.Nagar. When he reached near the Government Hospital at K.K.Nagar, the bus bearing Reg.No.TN-21-N-0811, belonging to the appellant Transport Corporation, came in the same direction in a rash and negligent manner and dashed against the two-wheeler which the respondent was riding. Due to the said impact, the respondent sustained grievous injuries. The respondent 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.1,40,293/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the Tribunal has erred in holding that the appellant's bus driver was rash and negligent and was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.It is seen that the respondent has not been properly served. Even though notice regarding admission and conditional order of stay stay was ordered on 13.06.2012, no steps have been taken on the side of the appellant to serve papers to the respondent.

6.Considering the deposition made by P.W.1-injured 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 the deposition of R.W.1-Driver of the bus that a case has been filed against him by the police and that he has not filed any complaint against the injured and also considering the fact that there was no documentary evidence available that the injured has caused the accident, 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 factual finding this Court is not inclined to interfere.

7.With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has awarded a sum of Rs.35,293/- towards medical expenses, based on Ex.P6-Medical Bills, a sum of Rs.10,000/- each towards transportation expenses, extra nourishment, attender charges and loss of earning and Rs.45,000/- towards 30% disability. Even though the Doctor assessed the disability at 35% by issuing Ex.P9-Disability Certificate, the Tribunal reduced the percentage of disability to 30% and awarded the said sum, at the rate of Rs.1,500/- per percentage of disability. The Tribunal has also awarded a sum of Rs.20,000/- towards pain and suffering, considering the injuries sustained by the injured claimant. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above heads and hence the same need not be interfered with by this Court.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

9.The appellant Transport Corporation is directed to deposit the award amount as ordered by the Tribunal with interest, 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 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 Motor Accidents Claims Tribunal,
Principal and Sessions Court (Fast Track Court No.2),
Poonamallee.
- 2.The Section Officer,
VR Section, Madras High Court.

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