

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.04.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1200 of 2012
and
Mp.No.1 of 2012

Managing Director,
Tamil Nadu State Transport Corporation,
12, Ramakrishna Road,
Salem - 636 007. ... Appellant/2nd Respondent

Versus

1.J.Gopal
2.R.Thiagarajan ... Respondents/Petitioners & Respondent 1
[R2 Set Ex-parte in Lower Court]

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 09.11.2010 made in M.C.O.P.No.154 of 2009, on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Perundurai.

For Appellant : Mr.S.V.Vasanthakumar

For Respondents: Mr.N.Manokaran (for R1)
: Ex-parte (for R2)

JUDGMENT

The appellant/Insurance company has preferred this appeal, challenging the award dated 09.11.2010 passed in M.C.O.P.No.154 of 2009, on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Perundurai, only insofar as it relates to quantum of compensation awarded by the Tribunal and questioning the liability fixed on them.

2. According to the first respondent herein/claimant, on 19.03.2009, at about 8.30 am., when he was riding his motorcycle bearing Regn.No.TN-56-5316 near Vengamedu Petrol Bunk at Erode road, a TNSTC bus bearing Regn.No.TN-30-N-0466, which was driven by its driver in a rash and negligent manner dashed against the claimant's motorcycle. In the said impact, the claimant sustained grievous injuries. Contending that the driver of the Transport Corporation was responsible for the cause of accident, the claimant filed a claim petition, claiming a sum of Rs.1,50,000/- as compensation.

3. The Transport Corporation has filed a counter statement denying all the averments made in the claim petition in respect of the age, income and other details furnished by the claimant and prayed for dismissal of the claim petition.

4. Before the Tribunal, the claimant was examined himself as PW.1 besides examining one Dr.Kesavamoorthy as PW.2 and Exs.P1 to P14 were marked. On the side of the respondents, RW1 was examined and no documents were marked.

5. On a consideration of both oral and documentary evidence, the Tribunal has come to the conclusion that the accident has taken place due to the rash and negligence driving of the driver of the Transport Corporation bus and awarded compensation of Rs.97,573/- to the claimant for the injuries sustained in the accident. Aggrieved against the said award, the Transport Corporation has come up with the present appeal.

6. I have heard the learned counsel for the respective parties and perused the materials on record including the award of the Tribunal.

7. On a perusal of the evidence of PW.1/injured witness, coupled with Exs.P1 to P7 and it is evident that on the point of rash and negligence driving fixed on the part of the driver of the Transport Corporation bus is well founded and the same is hereby confirmed.

8. A perusal of evidence of PW.2/Doctor, would establish that the disability of the claimant is a permanent disability and the disability is assessed at 8% and Ex.P12/ disability certificate is issued to that effect. Due to the accidental injuries, he totally lost his earning capacity and accordingly, adopted proper multiplier of '13' and awarded the fair and just compensation Rs.1,74,720/- to the claimant. The award amount awarded on other heads also appears to be fair and reasonable and thus, the said findings rendered by the Tribunal on the count is hereby confirmed.

9.Considering all the above materials placed before this Court, I do not find any infirmity in the compensation awarded by the Tribunal. In the above circumstances, this Court is not inclined to interfere with the award passed by the Tribunal. Therefore, the award passed by the Tribunal is hereby confirmed.

10.With the above observations, the Civil Miscellaneous Appeal filed by the Transport Corporation is dismissed, by confirming the award dated 09.11.2010 passed in M.C.O.P.No.154 of 2009, before the Motor Accidents Claims Tribunal, Subordinate Judge, Perundurai.

(i) The Transport Corporation is directed to deposit the amount as determined by the Tribunal together with interest 7.5% per annum, after adjusting amount, if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(ii) On such deposit being made, the claimant is entitled to withdraw the same with accrued interest, less the amount if any, already withdrawn. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

klt

To

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

2. The Section Officer,
V.R. Section, High Court, Madras - 104. (+2 Copies)

+1cc to Mr.N.Manokaran, Advocate SR.No.39021

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Mp.No.1 of 2012

BR(CO)
GMY(21/10/2019)