

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2049 of 2012

and

M.P.No.1 of 2012

Metropolitan Transport Corporation Ltd.,
Rep. by The Managing Director,
Chennai - 2 .. Appellant/Respondent

Vs.

G. Mohan .. Respondent/Claimant

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 09.09.2011 made in M.C.O.P.2379 of 2007 on the file of the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai.

For Appellant : Mr.S.Sivakumar
For Respondent : Mr. S.Gangaram Prasad

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the appellant / transport corporation against the Judgment and Decree dated 09.09.2011 made in M.C.O.P.No. 2379 of 2007 on the file of the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai.

2. The brief facts, which are necessary for disposal of this appeal, are as follows:

On 12.03.2007 at about 7:45 hours, the respondent herein as intending passenger was waiting at the Latiz Bridge Road Bus stop in front of Adayar Police Station, Chennai and when the bus reached the bus stop, the respondent was trying to get into the bus, but unfortunately, the driver started the bus and as a result of which, he fell down and sustained grievous injuries. The accident had occurred due to the rash and negligent driving on the part of the driver of the bus. For the injuries sustained by him, the respondent herein has filed a claim petition in M.C.O.P.No. 2379 of 2007 before the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai, claiming a sum of Rs.2,00,000/- as compensation.

3. Before the Tribunal, three witness were examined as P.Ws.1 to 3 and documents Exs.P.1 to P.5 were marked on behalf of the claimant. On the side of the respondent before the Tribunal, driver of the transport corporation bus namely, Mr.P.Ramesh was examined as R.W.1 and no document was marked.

4. The Tribunal, after considering both oral and documentary evidence adduced on either side, awarded a sum of Rs.1,09,700/- together with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of deposit as compensation. As against the said award passed by the Motor Accidents Claims Tribunal, (VI Court of Small Causes), Chennai, the Transport Corporation has preferred this appeal before this Court. The break up particulars are as follows:-

S.No	Particulars	Amount
1	Disability	Rs.70,200/-
2	Loss of income	Rs.9,000
2	Transportation Charges	Rs.5,000/-
3	Extra nourishment	Rs.5,000/-
4	Damage to clothes	Rs.500/-
5	Pain and suffering	Rs.20,000/-
	Total	Rs.1,09,700/-

5. It appears that the injured/P.W.1 in his oral evidence has stated that the negligence on the part of the driver is the cause for the accident. P.W.3/Doctor N.Saichandran has admitted that the respondent sustained fracture at right tibia and left 1st meta tarsal bone and it is the case of amputation and assessed disability at 45%. P.W.3, in his evidence, has stated that the claimant can continue his duty with some difficulties. Ex.P.3, Case sheet reveals that the claimant has sustained the laceration of right foot extending from middle malleolus upto 1st toe with heel pad completed, avulsed, laceration of 5x3x1 cm over left foot overmedial aspect. X-ray taken at right toe and left toe and it was found the fracture of 1st meta tarsal of right foot and skill grafting was done on 05.05.2007.

6. The learned counsel appearing for the appellant/transport corporation would contend that the Tribunal is erred in awarding higher compensation to the claimant. It is further contended that the Tribunal has failed to consider the oral evidence of

PW-3/Doctor, who has stated that the injured can continue his job and hence, prays for allowing of this appeal.

7. The learned counsel appearing for the respondent/claimant would contend that the award passed by the Tribunal is just and reasonable. He further contended that the Tribunal, after going through the evidence adduced before it, has come to the conclusion that the accident had occurred due to the rash and negligent attitude of the driver of the bus. Hence, prays to dismiss this appeal.

8. The rash and negligent driving on the part of the driver of the transport corporation bus is not in dispute and hence, the same is hereby confirmed.

9. On the point of quantum, both the parties were heard.

10. PW-3/Dr.N.Saichandran, in his oral evidence, has stated that the injured can continue his job with some difficulties and assessed the disability at 45% and issued Ex.P.4-Disability Certificate. The quantum of compensation awarded by the Tribunal, on re-appreciation of all the heads, appears to be fair and reasonable and hence, the same is hereby confirmed.

11. In the result,

[i] the Civil Miscellaneous Appeal is dismissed and the award dated 09.09.2011 passed by the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai, in M.C.O.P.No.2379 of 2007, is confirmed.

[ii] If the award amount with accrued interest has not been deposited, the appellant/transport corporation is directed to deposit the entire award amount with accrued interest at the rate of 7.5% per annum from the date of claim petition with costs, to the credit of M.C.O.P.No.2379 of 2007 on the file of the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai, within a period of eight weeks from the date of receipt of a copy of this Judgment.

[iii] On such deposit, the respondent/claimant is permitted to withdraw the same, less the amount already withdrawn, if any.

[iv] Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (C.S. -V)

//True Copy//

Sub Assistant Registrar

To.

1. The VI Judge, Court of Small Causes,
Motor Accident Claims Tribunal,
Chennai.
2. The Section Officer,
V.R. Section, High Court, Madras - 104.

+1 cc to M/s.G.Balaji Prasad, Advocate Sr.No. 32376

+1 cc to M/s.S.Sivakumar, Advocate Sr.No. 32063

AKM/08.01.2020/4P-5C /

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