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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3086 of 2011

Mani

.. Appellant/Petitioner

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Division 2, Salem Ltd.,
Regional Office at Bharathipuram,
Dharmapuri-5

.. Respondent/Respondent

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 14.07.2010 made in M.C.O.P.No.1081 of 2008 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri.

For Appellant : Mr.R.Selvakumar

For Respondent : Mr.D.Raghu

JUDGMENT

The appellant is the claimant in MCOP.No. 1081 of 2008, on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri. He has filed the above MCOP seeking compensation of Rs.5,00,000/- for the injuries sustained by him, in a road accident that, took place on 04.06.2007.

2. The brief case of the appellant/claimant is as follows:

On 04.06.2007 the appellant/claimant was riding a Bullock cart with a Sugar cane load from Velampatti to Dharmapuri District Co-Operative Sugar Mills. At the time, while, the Bullock Cart was nearing Dhanraj house at Vellichandi to Palacode main road, the TNSTC Bus bearing Registration No. TML 7267 proceeding from Vellichandai, driven by its driver in a rash and negligent manner, without observing any rules of the road, without sounding horn and at an uncontrollable speed, came behind and dash against the bullock cart, as a result of which, the appellant/claimant was thrown away from the cart and



sustained grievous injuries all over body and two Bullocks were died on the spot and the cart is also fully damaged. The accident had occurred only due to the rash, reckless and negligent driving of the driver of the said TNSTC bus.

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3. Before the Tribunal, on behalf of the appellant/claimant, PW1 and PW2 were examined as witness and Ex.P1 to Ex.P5 were marked. On behalf of the Insurance Company one witness, namely, Inbasekeran, was examined and no exhibit was marked. After analysing the oral and documentary evidence available on records, the Tribunal came to a conclusion that, the accident happened due to the rash and negligent driving of the driver of the TNSTC Bus bearing Registration No. TML 7267 and awarded a compensation of Rs.69,000/- to the first respondent/claimant.

4. On the point of quantum of compensation, both the parties are heard. PW2 doctor has deposed that by perusing the wound certificate (Ex.P2), X-ray (Ex.P5) and physical examination of the appellant/ claimant, it is seen that the right zygon bone was found to be malunited, and hence, the appellant/claimant finds it difficult to much and crush hot nature food. Hence the permanent disability of the appellant/claimant is assessed as 25%. In the wound certificate, the doctor mentioned 23 abrasions and contusions injuries in the forehead, left shoulder, upper scapula, upper cervical spinal area, lower cervical area, upper scapula, left scapula, lower upper area, neck, chest, umbilious thigh, right, left, knee and one deep lacerated injury zygon. On taking X-ray of his skull, no bone injuries was found. But Injury No.4 is found to be grievous. Accordingly, the disability is fixed at 25%. By awarding a sum of Rs.2,000/- per percentage of disability, a sum of Rs.50,000/- is awarded towards permanent disability. A sum of Rs.25,000/- and Rs.5,000/- awarded by the Tribunal towards 'pain and sufferings' and 'loss of income' is confirmed. The first respondent/claimant is entitled to a sum of Rs.5,000/-, Rs.5,000/- and Rs.5,000/- towards 'transportation', 'extra nourishment' and 'loss of amenities' respectively.

5. It is specifically represented by the learned counsel appearing for the first respondent/claimant that two bullocks died on the spot and the cart is also fully damaged. Therefore, a sum of Rs.25,000/- is awarded to each bullocks.

6. Therefore, the compensation awarded by the Tribunal is enhanced from Rs.69,000/- to Rs.1,45,000/-, which shall carry interest at the rate of 7.5% per annum.

7. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.



(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.69,000/- to Rs.1,45,000/-.

(iii) The appellant/claimant is directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of court fee.

(iv) The respondent/Tamil Nadu State Transport Corporation is directed to pay the entire enhanced compensation amount i.e., Rs.1,45,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.1081 of 2008, dated 14.07.2010, on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Dharmapuri within a period of twelve weeks from the date of receipt of a copy of this order.

(v) On such deposit being made by the respondent, the appellant/claimant is at liberty to withdraw the same, in the suitable manner known to law.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Chief Judicial Magistrate, Dharmapuri.

2. The Section Officer,
V.R. Section, High Court, Madras - 104.

+1cc to Mr.R.Selvakumar, Advocate, S.R.No.23472

+1cc to Mr.D.Raghu, Advocate, S.R.No.24029

C.M.A.No.3086 of 2011

CNR(CO)

CS/20/11/2019