

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2383 of 2012
and M.P.No.1 of 2012

The Managing Director,
Tamil Nadu State Transport Corporation
No.12, Ramakrishna Road
Salem-7.

... Appellant /Respondent

Vs

Dhanam

... Respondent/Petitioner

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 07.06.2011 made in MCOP No.595 of 2008 on the file of the Motor Accidents Claims Tribunal, Sub Judge, Rasipuram.

For Appellant : Mr.V.Ramesh

For Respondent : Mr.Ma.P.Thangavel

JUDGMENT

The case in brief, is as follows:

On 24.05.2008 at about 05.30 a.m., the respondent / injured was travelling in the bus bearing Reg.No.TN-30-N-0057 belonging to the appellant Transport Corporation from Trichy to Namakkal, on the Trichy - Namakkal Main Road. When the bus reached near Velputhur Ellai Medu, due to the rash and negligent driving of the bus by its driver, the bus dashed against a tamarind tree. Due to the said impact, the respondent who was travelling in the bus, sustained bone fracture in the right knee, injuries in the right cheek and all over the body. The respondent claimed a sum of Rs.5,00,000/- before the Tribunal as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.2,08,800/- with interest at the rate of 7.5% per annum from the date of petition.

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

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

4.The learned counsel for the respondent / claimant has submitted that the Tribunal has considered the materials and evidence in proper perspective and has awarded the compensation, which is just, fair and reasonable and hence the compensation awarded by the Tribunal, does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

6.It was deposed before the Tribunal by P.W.1, the respondent herein that only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation, the accident had occurred. R.W.1-Giri, driver of the bus, deposed before the Tribunal that at the time of accident, a lorry came at a very high speed from the opposite direction and in order to avoid dashing against the lorry, the driver of the bus turned the bus to the left side and due to the same, it dashed against the tamarind tree. Considering the materials and evidence available on record, 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 finding this Court is not inclined to interfere.

7.With regard to the quantum of compensation, the Tribunal has awarded a sum of Rs.1,18,800/- towards loss of income for 30% disability. The said sum has been arrived at by fixing the monthly income of the injured as Rs.3,000/- earned by way of selling vegetables and snacks, arriving at the annual income at Rs.36,000/-, adopting the multiplier of 11 and fixing the percentage of disability at 30%, even though P.W.3-Doctor fixed the disability at 42% through Ex.P10. The Tribunal has also awarded a sum of Rs.60,000/- towards medical expenses relying upon Ex.P6-Medical Bill Series, Rs.2,000/- towards transport to hospital, Rs.5,000/- towards extra nourishment, Rs.3,000/- towards attender charges and Rs.20,000/- towards pain and suffering. The Tribunal has rightly considered the materials and evidence, correctly assessed the income of the deceased, adopted

the correct multiplier and arrived at Rs.1,18,800/- towards loss of income for 30% disability. The amounts awarded by the Tribunal towards other heads are also very reasonable and hence the same are confirmed.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. It is stated that the entire award amount has been deposited by the appellant Transport Corporation. Hence, the respondent /claimant is permitted to withdraw the amount lying in the deposit, if not already withdrawn, on making proper application before the Tribunal.

Sd/-

Assistant Registrar (Ad-II)

//True Copy//

Sub Assistant Registrar

KM
To

1.The Subordinate Judge,
The Motor Accidents Claims Tribunal,
Rasipuram.

2.The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.MA.P.Thangavel, Advocate SR.67794

C.M.A.No.2383 of 2012
and M.P.No.1 of 2012

LN (CO)
CB(17/02/2020)

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