

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2429 of 2012

and

M.P.No.1 of 2012

The Managing Director,
Tamilnadu State Transport Corporation Ltd.
Kumbakonam ...Appellant/Respondent

Vs.

Devaraj ...Respondent/Claimant

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Decree and Judgment dated 10.02.2006 passed in M.A.C.T.O.P.No.48 of 2005 on the file of the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Nagapattinam

For Appellant : Mr.N.Anand

For Respondent:Mr.R.Murugabharathi

J U D G M E N T

The present Civil Miscellaneous Appeal is preferred by the Transport Corporation challenging the award passed by the court below.

2.The case in brief is as follows:

On 06.04.2001, at about 9.00 a.m., when the respondent/claimant was riding his TVS 50 Mopet bearing registration No.TN51 W 1207 from Vedaranyam to Nagapattinam, the appellant's bus came in a rash and negligent manner and hit the moped from behind, due to which, the respondent/claimant was thrown out from the vehicle and the vehicle got jammed in the front side of the bus. Due to the said impact, the respondent/claimant sustained multiple grievous injuries all over the body and fracture in the chest bone. Stating that the accident had occurred due to the rash and negligent driving of the driver of the bus, he filed a claim petition claiming compensation of Rs.4,00,000/-. The Tribunal, on consideration of

the materials and evidence adduced by the parties, has awarded a compensation of Rs.70,000/- with interest at 7.5%p.a. from the date of petition. Aggrieved over the same, the appellant Transport Corporation has preferred this appeal.

3.The learned counsel for the appellant submitted that the Tribunal has erred in holding that the appellant's bus driver was negligent and was solely responsible for the accident. He also submitted that the compensation awarded by the Tribunal, by adopting the multiplier method, in the case of injury, is excessive and exorbitant and the same has to be reduced.

4.The learned counsel for the respondent/claimant has submitted that the Tribunal has thoroughly considered the materials and evidence available on record and has granted the compensation, which is just, fair and reasonable and hence, the same need not be interfered with by this Court.

5.Heard both sides and perused the materials available on record.

6.P.W.1/respondent/claimant deposed in his evidence that at the time of accident, he was riding his moped on the extreme left side of the road and at that time, the appellant's bus came in a rash and negligent manner and hit the moped from behind and thereby caused the accident. The testimony of P.W.1 was corroborated by Ex.P1-FIR, which has been registered against the driver of the bus. Further, there is no contra evidence to disprove the contention of the respondent/claimant with regard to the manner of the accident. Considering those oral and documentary evidence, the Tribunal rightly 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.In respect of the quantum of compensation, P.W1/respondent/ claimant has stated that he was working as Priest and was earning a monthly salary of Rs.5,000/-, however, he has not filed any document in order to substantiate the same. He further deposed that immediately after the accident, the respondent/claimant has taken treatment as inpatient from 06.04.2001 to 11.04.2001. Therefore, the Tribunal has fixed the monthly salary at Rs.2,000/-. P.W.2/Doctor asserted in his evidence that he examined the respondent/claimant on 24.01.2006 and assessed his disability at 31%. Ex.P7 is the disability certificate and Ex.P8 is X ray. Taking note of the above materials and evidence, the Tribunal has taken the permanent disability at 20% and determined the compensation under the head

"loss of income" at 38,400/-, besides awarding Rs.30,000/- towards pain and suffering. Based on Ex.P5 medical bills, the Tribunal has awarded Rs.400/- towards medical expenses. The Tribunal has also awarded Rs.1,200/- towards transportation charges, extra nourishment and loss of earning capacity. Having regard to the nature of the injuries and the quantum of permanent disability sustained by the respondent/claimant, the amounts so awarded under those heads are fair and reasonable and the same do not call for any interference at the hands of this Court.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed. The appellant / Transport Corporation shall deposit the entire compensation amount, along with interests and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the amount lying in the deposit to the Savings Bank Account of the claimant / respondent through RTGS, one week thereafter.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssd/rk
To

1. The Motor Accident Claims Tribunal cum
Chief Judicial Magistrate, Nagapattinam.
2. The Section Officer, V.R.Section,
Madras High Court, Chennai 104.

+1cc M/s.N.Anand, Advocate Sr.62896
+1cc to M/s.R.Muruga Bharathi, Adcocate Sr.61734

C.M.A.No.2429 of 2012 and
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