

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.2448 OF 2012

AND

M.P.NO.1 OF 2012

The Managing Director,
Metropolitan Transport Corporation Ltd,
Pallavan Salai,
Chennai - 2.

.. Appellant/Respondent

Vs.

R.Amaladoss

.. Respondent/Petitioner

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 20.10.2009 made in M.C.O.P.No.3685 of 2007 on the file of the Motor Accident Claims Tribunal, Small Causes Court No.II, Chennai.

For Appellant : Mr.S.V.Vasantha Kumar

For Respondent : Not ready in Notice

J U D G M E N T

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.50,500/- towards compensation to the respondent, due to the injuries suffered by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 29.05.2005, at about 10.00am, the respondent was riding his two wheeler bearing Registration No.TN-22-AC-4581 from Santhosapuram to T.Nagar. When the two wheeler was nearing opposite to Mohammed Sadaq College, Solinganallur, the bus bearing Registration No.TN-01-N-3541 driven by its driver in a rash and negligent manner came from the opposite direction at high speed and dashed against the

respondent. Due to the said impact, the respondent sustained grievous injuries, for which, he filed a claim petition claiming a sum of Rs.1,00,000/- as compensation before the Tribunal.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident had occurred due to the rash and negligent driving of the driver of the bus and awarded a sum of Rs.50,500/- as compensation to the respondent/claimant. Aggrieved over the same, the appellant /Transport Corporation has come out with the present appeal.

4.The learned counsel appearing for the appellant/Transport Corporation has not disputed the liability of the Transport Corporation to pay compensation to the respondent/claimant. However, he submitted that the compensation of Rs.50,500/- awarded by the Tribunal is excessive and exorbitant for the injuries sustained by the respondent/claimant.

5.Heard the learned counsel for the appellant and perused the materials available on record.

6.Though notice was ordered way back in the year 2012, the appellant has not taken proper steps to serve papers on the other side even at this length of time. However, due to paucity of time, this Court is inclined to dispose this appeal on merits.

7.Since the learned counsel for the appellant has not disputed the manner in which the accident took place, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus, does not require any interference by this Court.

8.With regard to the quantum of compensation awarded by the Tribunal, P.W.2/respondent/claimant deposed before the Tribunal that he was working as Electronic Engineer and earning a sum of Rs.6,000/- per month. But no document has been filed to substantiate the same. The Tribunal came to the conclusion that the respondent, being an Engineer, would have been earning a sum of not less than Rs.5,000/- and accordingly fixed the monthly income of the claimant at Rs.5,000/- and awarded a sum of Rs.10,000/- towards loss of earnings on the ground due to the injuries and disabilities, he would have been disabled from attending his job for a period of 2 months. P.W.3/Doctor deposed that the respondent/claimant sustained contusion in left and right legs, nasal bone fracture, head injury and multiple injuries all over the body. As per Ex.P10/Disability Certificate, the respondent sustained 35% disability. Considering the injuries sustained, the Tribunal reduced the same to 10% and awarded a sum of Rs.20,000/- towards disability

at the rate of Rs.2,000/- per percentage of disability. Further a sum of Rs.1,000/- each has been awarded towards transportation, extra nourishment, damage to clothes and articles and medical expenses, Rs.1,000/- towards other expenses, Rs.9,500/- towards pain and suffering and Rs.3,000/- each towards loss of amenities and loss of expectation of life. This Court is of the opinion that the compensation awarded by the Tribunal under these heads are just compensation and not excessive and hence, the same need not be interfered.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant/Transport Corporation is directed to deposit the award amount along with interest and costs, as ordered by the 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 respondent is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gbi

To

1. The Judge,
Motor Accident Claims Tribunal,
Small Causes Court No.II,
Chennai.

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

AK(CO)
CS/20/11/2020

C.M.A.No.2448 of 2012
and
M.P.No.1 of 2012