

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2814 of 2012

and

M.P.No.1 of 2012

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

Vs.

P.Jayakumar ... Respondent/ Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 20.12.2011 made in M.C.O.P.No.2896 of 2008 on the file of the Motor Accidents Claims Tribunal, Small Causes Court No.IV, Chennai.

For Appellant : Mr.S.Sivakumar

For Respondent : Mr.S.Gangaram Prasad

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/Transport Corporation as against the award of a sum of Rs.4,64,700/- to the respondent/claimant for the injuries sustained by him in a motor vehicle accident.

2.The facts of the case are that, on 31.05.2008 at about 16.30 hours, while the respondent was riding his motorcycle bearing Registration No.TN-22-BY-3157 on the Velachery Main Road, opposite to Christu Raja School, Chennai, the bus bearing Registration No.TN-01-N-3842 belonging to the appellant Transport Corporation, came from behind in a rash and negligent manner and dashed against the motorcycle. Due to the impact, the respondent sustained grievous injuries, for which, he filed a claim petition claiming a sum of Rs.6,00,000/- as compensation before the Tribunal. Considering the materials and evidence available on record, the Tribunal 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.4,64,700/- with interest at the

rate of 7.5% per annum from the date of petition, as total compensation to the respondent/claimant.

3. 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.4,64,700/- awarded by the Tribunal is excessive and exorbitant for the injuries sustained by the respondent/claimant and the same has to be reduced to certain extent.

5. Per contra, the learned counsel appearing for the respondent/claimant submitted that the Tribunal, after considering the oral and documentary evidence in a proper perspective, has awarded the compensation, which is fair, just and reasonable and the same warrants no interference in the hands of this Court.

6. Heard both sides and perused the records.

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, need not be interfered with by this Court.

8. The respondent / claimant has been examined as P.W.1 before the Tribunal, who deposed that he was working as a lorry driver under one R.Venkatachalam and earning a sum of Rs.10,000/- per month. But no documentary evidence has been adduced to substantiate the same. Hence, the Tribunal has fixed the monthly income of the claimant at Rs.4,500/-. P.W.2-Doctor has examined the respondent / claimant and assessed the disability at 70% and issued Ex.P6-Disability Certificate, to that effect. Even though the disability assessed by the Doctor at 70% was accepted, the Tribunal was of the view that it cannot be assumed that 70% disability would be the whole body disability of the respondent and that, if the disability of 70% as assessed by the Doctor is translated into whole body disability, then it cannot exceed more than 40%. Hence, the Tribunal has fixed the disability of the respondent / claimant at 40%. Accordingly, fixing the monthly income at Rs.4,500/- and adopting the multiplier of 17, the Tribunal has awarded a sum of Rs.3,67,200/- towards loss of earning power in respect of 40% permanent disability. The Tribunal has also awarded a sum of Rs.31,500/- towards loss of earning, income, Rs.5,000/- towards transport to hospital, Rs.10,000/- towards extra nourishment,

Rs.1,000/- towards damage to clothes and Rs.50,000/- towards pain and suffering.

9.This Court is of the opinion that the compensation awarded by the Tribunal under different heads are just compensation and not excessive. Further, the findings rendered by the Tribunal are based on evidence and documents produced by the claimant. Hence, the compensation of Rs.4,64,700/- with interest at the rate of 7.5% per annum from the date of petition, is hereby confirmed.

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

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gbi/srk

To

1. The Judge,  
Motor Accidents Claims Tribunal,  
Small Causes Court No.IV,  
Chennai.

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

+1cc to Mr.S.Sivakumar , Advocate SR.No. 63060

+1cc to Mr.G.Balaji Prasad , Advocate SR.No. 62668

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and

M.P.No.1 of 2012

A.SK(20/07/2020)