

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3357 of 2012
and M.P.No.1 of 2012

Managing Director,
State Express Transport Corporation Ltd.,
Anna Salai, Chennai-2. ... Appellant/2nd Respondent

Vs

1.D.Suresh Kumar

2.Managing Director,
Tamil Nadu State Transport
Corporation Coimbatore Ltd.,
37, Mettupalayam Road,
Coimbatore. ... Respondents/Respondents

Appeal filed under Section 173 of the Motor Vehicles Act against the Judgment and decreetal order dated 12.11.2010 passed in M.C.O.P.No. 435 of 2008 by the learned Chief Judicial Magistrate, Motor Accident Claims Tribunal, Namakkal.

For Appellant : Mr.S.S.Swaminathan

For Respondent-1 : Mr.Ma.P.Thangavel

For Respondent-2 : MR.S.V.Vasantha Kumar

JUDGMENT

This appeal is preferred by the Appellant/Transport Corporation against the award of a sum of Rs.1,98,270/- towards compensation to the first respondent, for the injuries sustained by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 11.07.2007 at about 04.00 a.m when the first respondent was travelling in TNSTC bus bearing Registration No.TN-01-N-6683, from Chennai to Erode near Elavanasoor Kottai A.Puthur Kai Katti, another Transport Corporation Ultra Deluxe bus bearing Registration No.TN-38-N-

1485, came from the opposite direction in a rash and negligent manner and dashed against the bus in which the first respondent was travelling, as a result of which, the first respondent sustained multiple grievous injuries and fractures on his both bones, right side leg and dislocation in right ankle and fracture tibia left and all over the body. The first respondent filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal has arrived at the total compensation at Rs.1,98,270/- with interest at the rate of 7.5% p.a., from the date of petition. Holding that both the drivers of the buses are responsible for the accident, the Tribunal fixed the liability at the rate of 60% on the second respondent Transport Corporation and 40% on the appellant Transport Corporation.

3.Challenging the 40% liability, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.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 also rash and negligent in driving the bus, since the fault was completely on the driver of the Coimbatore Division bus. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

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

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

7.R.W.1 is the conductor of the appellant's bus who deposed before the Tribunal that only when he heard a sudden alarming sound, he came to know about the accident, but he was not clear as to who is the tort-feasor for the accident. R.W.2, conductor of the 2nd respondent bus has stated that the negligence was on the part of the driver of the appellant's bus. Ex.P1 is the First Information Report, from which it is seen that there was head-on collision between the two buses. Considering the materials and evidence available on record, the Tribunal came to the conclusion that both drivers of the buses were responsible for the accident and fixed the liability at the ratio of 60% and 40% on the part of the drivers of the buses belonging to the second respondent and the appellant, respectively. This Court is not inclined to interfere with the said factual finding.

8. With regard to the compensation, the Tribunal has considered the age of the injured as 18 and fixed the notional income as Rs.15,000/- p.a, since there was no salary certificate. Considering Ex.P.15/Disability Certificate and Ex.P.2/Accident Registrar, the Tribunal has awarded a sum of Rs.80,000/- and Rs.83,270/- towards Disability and Medical Expenses respectively. The Tribunal has further awarded Rs.20,000/- towards pain and sufferings, Rs.10,000/- towards Nourishment and Rs.5,000/- towards Transport expenses. Thus, the Tribunal has awarded a sum of Rs.1,98,270/- as total compensation. The findings rendered on quantum by the Tribunal are based on settled principles of law, probabilities of case and weightage of evidence. Hence, this Court is of the view that the compensation awarded by the Tribunal does not require any interference.

9. In the result, the Civil Miscellaneous Appeal is dismissed. The appellant/Transport Corporation is directed to deposit the award amount with interest, as ordered by the Tribunal, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent/injured/ claimant is permitted to withdraw the same, on making proper application before the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Smn/rk

To

1. The Motor Accidents Claims Tribunal
Chief Judicial Magistrate, Namakkal.
2. The Section Officer, VR Section, Madras High Court.

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No.68225
+1cc to Mr.S.S.Swaminathan, Advocate, S.R.No.68042

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CS/27/01/2020