

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3019 of 2013
and M.P.No.1 of 2013

Andhra Pradesh State
Road Transport Corporation
rep.by Managing Director
Hyderabad
Andhra Pradesh.

... Appellant/2nd Respondent

Vs

1.Vijayakumar

... R1/Petitioner

2.Rayan @ P.Chengalvarayan
(R2-Driver not necessary party)

.... R2/R1

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 07.09.2010 made in MCOP No.3 of 2009 on the file of the Motor Accidents Claims Tribunal/Subordinate Judge, Bhavani.

For Appellant : Mr.M.Sriram

For Respondents : No appearance for R2

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.1,51,000/- towards compensation to the first respondent, due to the injuries suffered by him in a motor vehicle accident.

2.The case in brief, is as follows:

On 25.02.2007, the first respondent herein was travelling in the TVS Max-100 bike bearing Reg.No.TN-20-K-6318 as a pillion rider, in the Thiruthani - Thirupathi Road towards Andhra Pradesh. When the bike reached near Thiruthani Teachers Nagar By Pass Road at about 12.30 hours, the bus bearing Reg.No.AP-11-Z-

1716 belonging to the appellant Transport Corporation, driven by its driver in a rash and negligent manner, came from the opposite direction and dashed against the bike in which the first respondent was travelling. Due to the said impact, the first respondent sustained injuries and fractures. The first respondent filed a claim petition before the Tribunal, claiming a sum of Rs.5,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,51,000/- with interest at the rate of 7.5% per annum from the date of petition.

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

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

5.It is seen that the first respondent has not been properly served. The appellant Transport Corporation has not taken steps to serve papers to the first respondent, even at this length of time.

6.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

7.It is seen from Ex.P1- First Information Report that a case has been filed against the second respondent, who is the driver of the bus, before the Thiruthani Police Station in Crime No.78 of 2007 under Sections 279 and 338 of IPC. According to Ex.P3-Rough Sketch, it is seen that the accident had occurred on the left side of the road. It is also seen that the driver of the bus accepted the negligence on his part which led to the accident and paid the fine before the Criminal Court. Hence, 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. This Court is not inclined to interfere with the said factual finding arrived at by the Tribunal.

8.With regard to compensation, the Tribunal has awarded a sum of Rs.50,000/- towards medical expenses, based on Exs.P8 to 11 and 24, which is an actual expenditure. The Tribunal has also awarded a sum of Rs.30,000/- each towards pain and suffering, permanent disability and loss of income during the treatment period, Rs.3,000/- towards transportation expenses and Rs.8,000/- towards extra nourishment. The Tribunal has considered the materials and evidence properly and has awarded

compensation towards the above heads and hence the same need not be interfered with by this Court.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10.The appellant Transport Corporation is directed to deposit the award amount with interest, as ordered by the Tribunal, less 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 / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Bhavani.
2. The Section Officer,
VR Section, Madras High Court.

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and M.P.No.1 of 2013

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