

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3174 of 2013
and M.P.No.1 of 2013

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

Vs.

V.Venkatesh
(Now disabled, rep.
by next friend wife Roopa) .. Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.02.2013 made in M.C.O.P.No.904 of 2010 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Krishnagiri.

For Appellant : Mr.K.J.Siva Kumar
For Respondent : Mr.Mukund R.Pandiyan

JUDGMENT

The Civil Miscellaneous Appeal is filed by the appellant/Transport Corporation as against the award of a sum of Rs.12,03,975/- to the respondent/claimant for the injuries sustained by him in a motor vehicle accident.

2.The facts of the case are that on 15.08.2009 at about 12.30 hours, the respondent/claimant was proceeding along with his wife in his TVS Super XL vehicle bearing Regn.No.TN 24 Z 0877. When they were nearing the entrance of Soolagiri, the bus bearing Regn.No.TN 01/N 7441 belonging to the appellant Transport Corporation came from Hosur to Krishnagiri in a rash and negligent manner and dashed against the motorcycle. Due to the said impact, the respondent/claimant sustained head injury and multiple injuries all over the body. He filed a claim petition claiming a sum of Rs.25,00,000/- as compensation.

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 hence, directed the appellant/Transport Corporation to pay a sum of Rs.12,03,975/- 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.12,03,975/- awarded by the Tribunal is excessive and exorbitant for the injuries sustained by the respondent/claimant.

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 at the hands of this Court.

6.Heard both sides and perused the records.

7.There is no dispute with regard to the liability of the appellant Transport Corporation to pay compensation to the respondent/claimant.

8.As regards the quantum of compensation, P.W.1/respondent/ claimant deposed that he was earning Rs.9,000/- per month by working as a building contractor. But, no document was filed by the respondent/claimant to prove his income. In the absence of any specific evidence, with regard to the income of the injured, the Tribunal has taken the monthly income at Rs.4,000/-. P.W.3/Doctor deposed that the respondent/claimant sustained severe head injury, external injuries on right occipital scalp and hematoma. The doctor has assessed the disability of the respondent/claimant at 90% and issued Ex.A12 disability certificate. Taking note of the age of the deceased as 40 years, the Tribunal has rightly applied the multiplier of 15 and determined the compensation under the head "permanent disability" at Rs.6,48,000/- (Rs.4,000/- X 12 X 15 X 90/100), which finding this Court is not inclined to interfere.

9.Further, the Tribunal has awarded Rs.20,000/- towards pain and suffering, Rs.10,000/- towards extra nourishment, Rs.2,28,959/- towards Ex.A5-medical bills, Rs.2,16,016/- towards Ex.A11-medical bills, Rs.10,000/- towards transportation, Rs.10,000/- towards attender charges, Rs.10,000/- towards loss of income during treatment period, Rs.1,000/- towards damage to

cloth and articles and Rs.50,000/- towards future medical expenses. The Tribunal, based on the materials and evidence adduced before it, has awarded a total compensation of Rs.12,03,975/-, which are fair, just and reasonable and also in consonance with the principles laid down by the Supreme Court in Sarla Verma v. Delhi Transport Corporation [2009 ACJ 1298] and the same do not call for any interference by this Court.

10. In such view of the matter, this Civil Miscellaneous Appeal is dismissed, thereby confirming the judgement and decree passed by the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant/Transport Corporation is directed to deposit the award amount 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 Tribunal shall transfer the same to the savings bank account of the respondent/claimant through RTGS, within a period of one week thereafter.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Krishnagiri.

Copy To: The Section Officer, V.R. Section,
High Court of Madras, Chennai -104.

AKM/24.02.2020/3P-3C /

C.M.A.No.3174 of 2013