

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2427 of 2016
and C.M.P.No.17081 of 2016

The Managing Director
Karnataka State Road Transport Corporation
Bengaluru Head Office
Bengaluru - 560 027. Appellant/Respondent

vs.

Mr.Akshaya Kumar Mohanty
@ Akshaya Mohanty Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 17.12.2015 passed in O.P.No.2075 of 2010 on the file of the Motor Accidents Claims Tribunal (in the VI Court of Small Causes) at Chennai.

For Appellant : Mr.T.Thiyagarajan

For Respondent : Mr.Sundar Narayanan
for Ms.C.Ananda Ramani.

JUDGMENT

[Judgment of the Court was made by K.K.SASIDHARAN, J.]

This appeal is directed against the order dated 17.12.2015 in M.C.O.P.No.2075 of 2015, determining the compensation payable to the respondent on account of the accident that took place on 03.08.2009, involving the bus owned by the Karnataka State Transport Corporation, the appellant herein.

2. The respondent was traveling in a bus owned by the appellant. The accident was on 03.08.2009. The bus bearing Registration No.KA-01-F-8356 plying from Bangalore to Chennai, dashed against the rear side of the Lorry bearing Registration No.TN-34-F-9469, which was proceeding ahead of the said bus. Due to the accident, the respondent sustained grievous injury. He was on treatment and was inpatient for a period from

03.08.2009 to 28.02.2010.

3. The respondent filed a claim petition before the Motor Accident Claims Tribunal, claiming a sum of Rs.30,00,000/- (Rupees Thirty Lakhs only) as compensation.

4. Before the Trial Court, the respondent contended that on account of the accident, he is not in a position to continue to work as a Software Engineer. The disability was assessed at 40%. The Tribunal, on a consideration of the entire factual matrix including the loss of earning capacity, awarded a sum of Rs.33,80,000/- (Rupees Thirty Three Lakhs and Eighty Thousand only) towards compensation. The said award is under challenge in the Civil Miscellaneous Appeal.

5. The learned counsel for the appellant contended that the Tribunal awarded compensation for loss of income for the period from 03.08.2009 to 28.02.2010, notwithstanding the award of compensation for loss of earning capacity. According to the learned counsel, the compensation awarded for loss of amenities at Rs.2,00,000/- is on the higher side. No other contentions were raised before us.

6. We have also heard the learned counsel for the respondent.

7. There is no dispute that the respondent sustained injuries in a road accident took place on 03.08.2009, involving the bus owned by the appellant. The respondent sustained grievous injuries and he was hospitalized for a period from 03.08.2009 to 28.02.2010.

8. Before the trial Court, the respondent marked documents to substantiate the contention regarding the accident, treatment taken, medical bills and the disability certificate to show the disability caused to him as well as the loss of income on account of the accident.

9. The Trial Court found that on account of 40% disability sustained by the respondent, it will not be possible for him to work in the very same concern and to earn the salary as before. Since 40% disability was on account of the accident, it cannot be said that the Tribunal erred in awarding compensation and more particularly taking into account the loss of earning capacity.

10. The Tribunal awarded a sum of Rs.2,00,000/- (Rupees Two Lakhs only) towards loss of amenities, which according to us is on the higher side. We therefore, re-fix the amount of compensation under the head of loss of amenities at Rs.1,00,000/ (Rupees One Lakh only). No other deduction is necessary on

account of the well considered order passed by the trial Court on the basis of the evidence and materials available on record.

11. We therefore, redetermine the compensation payable to the respondent as below:

Transportation and Extra Nourishment	-	Rs. 50,000/-
Loss of income during the treatment period	-	Rs. 2,55,738/-
Loss of earning capacity	-	Rs.18,93,922/-
To compensate Medical Expenses vide Exs.P6 to P8	-	Rs. 7,79,729/-
Pain and sufferings and also for attender charges	-	Rs. 2,00,000/-
Loss of amenities	-	Rs. 1,00,000/-
Total		Rs.32,79,389/-
Rounded off to Rs.32,80,000/-		

12. The compensation payable to the respondent is redetermined at Rs.32,80,000/- (Rupees Thirty Two Thousand and Eight Thousand only).

13. We are informed that the appellant has deposited 50% of the compensation. We grant four weeks time to the appellant to deposit the remaining amount of compensation with interest before the trial Court. The respondent is permitted to withdraw the entire amount on such deposit.

14 . The Civil Miscellaneous Appeal is allowed in part. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

Vsm

To

1.The Judge,
Motor Accidents Claims Tribunal
(VI Court of Small Causes), Chennai.

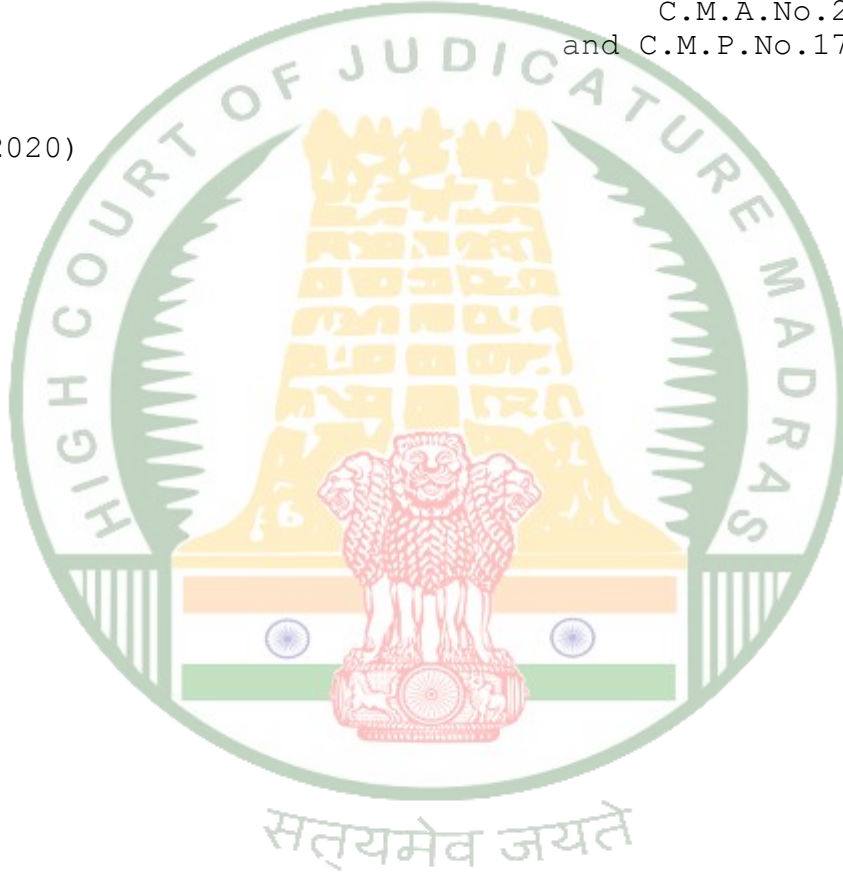
2.The Section Officer,
VR Section, Madras High Court.

+lcc to Mr.T.Thiyagarajan, Advocate, S.R.No. 84754

+lcc to Mr.Anandha Ramani, Advocate, S.R.No. 84753

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