

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.672 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation,
Kancheepuram. ... Appellant/Respondent

Vs.

Karthick ... Respondent/Claimant

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 25.09.2012 made in MCOP No.89 of 2010, on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Chengalpattu.

For Appellant : Mr.S.Sairaman

JUDGMENT

This appeal is preferred by the appellant/Insurance Company as against the award passed by the Tribunal on 25.09.2012 in MCOP.No.89 of 2010.

2.The brief facts of the case are as follows:

On 21.07.2009, at about 09.30 p.m., the respondent/claimant boarded the Transport Corporation bus, bearing registration No.TN-21-N-0838, at Melmaruvathur, to reach Melmalaiyanoor. When the bus was proceeding in the Santhaimedu turning, the driver of the bus swerved the same with a great speed. Due to the said impact, the respondent staggered and his right foot caught under the rear steps of the bus and his four toes crushed. Stating that the accident had occurred due to the rash and negligent driving of the driver of the bus, he filed a claim petition before the Tribunal, claiming a sum of Rs.2,50,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,16,000/- with interest at 7.5%pa from the

date of claim petition. Aggrieved over the same, the Transport Corporation has filed this appeal.

3. Heard the learned counsel appearing for the appellant Transport Corporation.

4. The learned counsel for the appellant/Transport Corporation submitted that the Tribunal has erred in holding that the driver of the appellant transport corporation bus was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5. An analysis of the award of the Tribunal would go to show that placing reliance on the evidence of PW.1/claimant and Ex.P1 First Information report, which was registered against the driver of the bus, the Tribunal has come to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus. Though RW1 was examined on the side of the appellant Transport corporation, the same was not substantiated by any documentary evidence. Further, there is no dispute with regard to the fact that the claimant sustained injuries while he was travelling in the bus. Hence, in the absence of any contra evidence, the finding so rendered by the Tribunal on negligence, is, in the opinion of this Court, perfectly justifiable and the same need not be interfered.

6. As regards the quantum of compensation, it appears that the Tribunal has taken the disability of the claimant at 25% as assessed by P.W.2/Doctor and has fixed Rs.2,000/- per percentage of disability and ultimately, awarded a sum of Rs.50,000/- towards disability. That apart, the Tribunal has awarded a sum of Rs.2,000/- towards Transport to Hospital, Rs.3,000/- towards Extra Nourishment, Rs.1,000/- towards damage to Clothes and articles, Rs.10,000/- towards mental agony, Rs.25,000/- towards pain and suffering and Rs.25,000/- towards loss of amenities and enjoyment in life. Taking shelter on Ex.P2/Discharge Summary, Ex.P3/Disability Certificate and Ex.P4/X-ray, the said sums were awarded by the Tribunal. This Court is of the view that the quantum so arrived at by the Tribunal is based on evidence and documents available on record and hence, the same warrants no interference.

7. Hence, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal filed by the Insurance Company is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

8. The appellant / Transport Corporation shall deposit the entire compensation amount, along with interest and costs, as

awarded by the Claims Tribunal, 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 is directed to transfer the deposited amount to the Savings Bank Account of the claimant / injured / respondent herein, through RTGS within a period of one week thereafter.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Chengalpattu.

+1cc to Mr.S.Sairaman, Advocate, S.R.No.85877

C.M.A.No.672 of 2015

TM(CO)
GN(16/09/2020)