

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.12.2019

CORAM:

THE HON'BLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.4570 of 2019
and C.M.P.No.25993 of 2019

The Managing Director
Tamil Nadu State Transport Corporation
Railway station road
Kumbakonam Town and Taluk
Tanjore District. ...Appellant/Respondent

Vs

Arivazhagan ...Respondent/Claimant

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 30.10.2018 made in M.C.O.P.No.223 of 2014 on the file of Motor Accidents Claims Tribunal, Principal Sub Court, Mayiladuthurai.

For Appellant : Mr.D.Venkatachalam

For Respondent : Mr.S.P.Yuvaraj for
Mr.T.Gopinath

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the award dated 30.10.2018 made in M.C.O.P.No.223 of 2014 on the file of Motor Accidents Claims Tribunal, Principal Sub Court, Mayiladuthurai.

2.The appellant/Transport Corporation is respondent in M.C.O.P.No.223 of 2014 on the file of Motor Accidents Claims Tribunal, Principal Sub Court, Mayiladuthurai. The respondent filed the above claim petition claiming a sum of Rs.30,00,000/- as compensation for the injuries sustained by him in the accident that took place on 12.01.2012.

3.According to the respondent, on 12.01.2012 at about 4.05 p.m., while he was riding the motorcycle from Govindapuram temple to Mayiladuthurai, the bus belonging to the appellant/Transport Corporation, which was coming in the

opposite direction in a rash and negligent manner, dashed against the motorcycle driven by the respondent and caused the accident. The respondent suffered multiple grievous injuries and filed the above claim petition claiming compensation.

4.The appellant filed counter statement denying the averments made by the respondent and contended that the bus belonging to the appellant/Transport Corporation was not involved in the accident and no such accident occurred as alleged by the respondent. On a false complaint given by the respondent, a case was registered against the driver of the bus.

5.Before the Tribunal, the respondent was examined as P.W.1, one Dr.Rajasekaran, was examined as P.W.2 and one Balaji was examined as P.W.3 and marked 10 documents as Exs.P1 to P10. On the side of the appellant, One sankar was examined as R.W.1 and one Mathi was examined as R.W.2 and no documentary evidence was let in. Receipt issued by the Aorta Medical Corporation was marked as witness exhibit.

6.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation and directed the appellant/Transport Corporation to pay a sum of Rs.12,54,692/- as compensation to the respondent.

7.Against the said award dated 30.10.2018 made in M.C.O.P.No.223 of 2014, the appellant/Transport Corporation has come out with the present appeal challenging the liability fastened on them as well as quantum of compensation awarded by the Tribunal.

8.Learned counsel appearing for the appellant contended that the Tribunal erred in holding that the accident has occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation. The Tribunal has failed to note that the bus belonging to the appellant was not involved in the accident. In the witness exhibit marked with regard to bills for having purchased materials, there are contradictions in the amounts. Learned counsel has referred to quotation obtained by the appellant from the company filed in the additional typed set of papers and contended that witness exhibit was a fabricated one and prayed for setting aside the award of the Tribunal.

9.Per contra, the learned counsel appearing for the respondent contended that a sum of Rs.9,22,692/- awarded by the Tribunal with regard to medical expenses may be set aside and the amounts awarded by the Tribunal with regard to other heads

may be confirmed. He further contended that the respondent took treatment as in-patient in Tanjore Medical College hospital from 12.01.2012 to 06.02.2012 and in K.M.C. Hospital from 23.02.2012 to 08.03.2012 and for ten days from 22.03.2012. To prove the same, he has produced Exs.P3 and P6/discharge summaries. The Tribunal has not awarded any amount towards attendant charges and prayed for granting compensation towards attendant charges and confirming the compensation granted by the Tribunal under other heads.

10.Heard the learned counsel appearing for the appellant as well as the respondent and perused the materials available on record.

11.From the materials available on record, it is seen that the Tribunal has held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation. This finding is based on the pleadings and evidence and there is no error in the said finding.

12.The main objection raised by the learned counsel appearing for the appellant is that there are contradictions in the medical bills marked as exhibit by the respondent. The Tribunal has failed to consider the contradictions. Further contention of the learned counsel appearing for the appellant is that the said bill itself is a fabricated one and produced quotation from the company with regard to cost of materials. The learned counsel appearing for the respondent has contended that a sum of Rs.9,22,692/- awarded by the Tribunal towards medical expenses may be set aside and the amounts awarded by the Tribunal in respect of other amounts may be confirmed and prayed for granting compensation towards attendant charges. Considering the contention of the learned counsel appearing for the appellant with regard to contradictions in witness exhibit and also the quotation now produced and the submission of the learned counsel appearing for the respondent, a sum of Rs.9,22,692/- granted by the Tribunal towards medical expenses is set aside. The respondent is entitled only a sum of Rs.58,000/- towards medical expenses as per Ex.P8.

13.According to the respondent, he was working as a Managing Director in Jagatguru Technology Services Private Limited and was earning a sum of Rs.60,000/- per month. In the accident, he has sustained fracture on his right leg. The Tribunal has not awarded any amount towards loss of income. The respondent has not filed any document to prove his avocation and income. The accident is of the year 2012 and a sum of Rs.7,500/- is fixed as monthly income of the respondent. Due to the injuries, the respondent would not have worked atleast for six months. Hence,

a sum of Rs.45,000/- (Rs.7,500/- X 6) is granted towards loss of income for a period of six months. The respondent took treatment as in-patient in Tanjore Medical College hospital from 12.01.2012 to 06.02.2012 and in K.M.C. Hospital from 23.02.2012 to 08.03.2012 and for ten days from 22.03.2012. The Tribunal has not awarded any amount towards attendant charges. Considering the fact that the accident is of the year 2012 and the period of treatment taken by the respondent, a sum of Rs.25,000/- is granted towards attendant charges. The amounts awarded by the Tribunal under other heads are not excessive and the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Disability	1,44,000	1,44,000	Confirmed
2.	Pain and suffering	50,000	50,000	Confirmed
3.	Extra nourishment	30,000	30,000	Confirmed
4.	Transportation	20,000	20,000	Confirmed
5.	Medical expenses	9,80,692	58,000	Reduced
6.	Future surgery	30,000	30,000	Confirmed
7.	Loss of income	-	45,000	Granted
8.	Attendant charges	-	25,000	Granted
	Total	Rs.12,54,692/-	Rs.4,02,000/-	Reduced by Rs.8,52,692/-

14. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.12,54,692/- is hereby reduced to Rs.4,02,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/Transport Corporation is directed to deposit the modified award amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of twelve weeks from

the date of receipt of a copy of this judgment. On such deposit, the respondent/claimant is permitted to withdraw the award amount now determined by this Court along with interest and costs, after adjusting the amount if any, already withdrawn. The appellant/Transport Corporation is permitted to withdraw the excess amount lying in the deposit to the credit of M.C.O.P.No.223 of 2014, if the entire award amount has already been deposited by them. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Mayiladuthurai.

+1cc to Mr.D.Venkatachalam, Advocate Sr.103817
+1cc to Mr.T.Gobinath, Advocate Sr.103960

C.M.A.No.4570 of 2019

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