

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.3072 of 2019
and
C.M.P.No.17247 of 2019

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
37, Mettupalayam Road,
Coimbatore - 641 043 ... Appellant/2nd Respondent

Vs.

1.R.Suganthi ...Respondent/Petitioner

2.R.Balasubramanian ...2nd Respondent/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.07.2018 made in M.C.O.P.No.1790 of 2015 on the file of the Motor Accident Claims Tribunal, the Principal Sub Court, Tiruppur.

For Appellant : Mr.K.J.Sivakumar

For R1 : Mr.Mayilsamy

R2 : Exparte before he Tribunal

J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation, challenging the award dated 27.07.2018 made in M.C.O.P.No.1790 of 2015 on the file of the Motor Accident Claims Tribunal, the Principal Sub Court, Tiruppur.

2.The appellant/Transport Corporation is 2nd respondent in M.C.O.P.No.1790 of 2015 on the file of the Motor Accident Claims Tribunal, the Principal Sub Court, Tiruppur. The 1st respondent filed the said claim petition, claiming a sum of Rs.50,00,000/- as compensation for the injuries sustained by her in the accident that took place on 27.08.2015. The Tribunal,

considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the 2nd respondent/driver of the bus belonging to the appellant/Transport Corporation and directed the appellant/Transport Corporation to pay a sum of Rs.15,00,000/- as compensation to the 1st respondent. Challenging the said award dated 27.07.2018 made in M.C.O.P.No.1790 of 2015, granting compensation to the 1st respondent, the appellant/Transport Corporation has come out with the present appeal.

3.The learned counsel appearing for the appellant/Transport Corporation contended that the Tribunal has failed to consider that the 1st respondent filed false claim against the appellant. The Tribunal has erroneously awarded excessive sum as compensation without considering the materials on record and in the absence of her age, income and prayed for setting aside the award of the Tribunal.

4.On the other hand, the learned counsel appearing for the 1st respondent/claimant contended that the accident occurred on 27.08.2015, while the petitioner was walking on Sedapalayam to Arivoli Nagar Road, Thottiappachi Kovil Bus stop, from north to south direction with much observing traffic rules and regulations. At that time, the 1st respondent had driven the Government bus bearing Reg.No.TN-38-N-1228 with rash and negligent manner and dashed against the petitioner and caused the accident. Due to the said accident, the petitioner sustained right leg fracture, right leg haemolysis and crush injury and grievous injuries all over the body. Further contended that the petitioner was taken to Government Hospital, Tirupur and for further treatment she was admitted as in-patient at CMC Hospital, Coimbatore on 27.08.2015. The petitioner was aged 21 years and she was hale and healthy at the time of accident. She was working in an Banian Company as a Checking and Supervisor and was earning a sum of Rs.25,000/- per month. Due to the said accident, she cannot do any work as before, she is permanently disabled. Thus the 1st respondent/claimant claimed a sum of Rs.50,00,000/- as compensation for the injuries sustained by her in the accident. The sum awarded by the Tribunal is meagre and prayed for enhancement of compensation.

5.Heard Mr.K.J.Sivakumar, learned counsel appearing for the appellant/Transport Corporation and Mr.Mayilsamy, learned counsel appearing for the 1st respondent and perused the materials available on record.

6.It is seen from the records that the accident occurred only due to negligent driving on the part of the driver of the bus by verifying Ex.P1/FIR and the case was also registered in the concerned police station. The other documents are

Ex.P2/final report, Ex.P3/observation magazar, Ex.P4/rough sketch, and Ex.P5/MVI Report reveals the fact that the accident occurred in the said time and date, due to rash and negligent driving on the part of the driver of the bus. Due to the accident, the petitioner sustained grievous injuries. The Tribunal observing Ex.P6/wound certificate and the claimant who has sustained grievous injuries was immediately admitted in KMCH Hospital, Coimbatore for which the medical report was also filed by the claimant before the Tribunal. PW3/Doctor assessed the disability of the claimant at 54.4% by verifying Ex.P11/X-ray but the Tribunal reduced the disability to 52%. The learned counsel appearing for the 1st respondent contended that she was working in an Banian Company Checking and Supervisor and was earning a sum of Rs.25,000/- per month. The 1st respondent has not filed any documents to substantiate the same. In the absence of any material, the Tribunal has taken Rs.9,000/- as monthly income of the claimant. Hence the sum determined by the Tribunal as monthly income for the age 21 years is very reasonable. The disability taken by the Tribunal 52% against the disability of 54.4% and assessed the disability by taking her monthly income and also by applying proper multiplier '18'. The Tribunal has assessed the sum at Rs.14,15,232/- towards disability which is very much reasonable. The sum awarded by the Tribunal under other heads are reasonable. There is no error in the finding of the Tribunal warranting interference by this Court.

7.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.15,00,000/- awarded by the Tribunal as compensation to the 1st respondent/claimant, along with interest and costs is confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

8.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 six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.1790 of 2015. On such deposit, the 1st respondent/claimant is permitted to withdraw the award amount, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

mtl

To

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

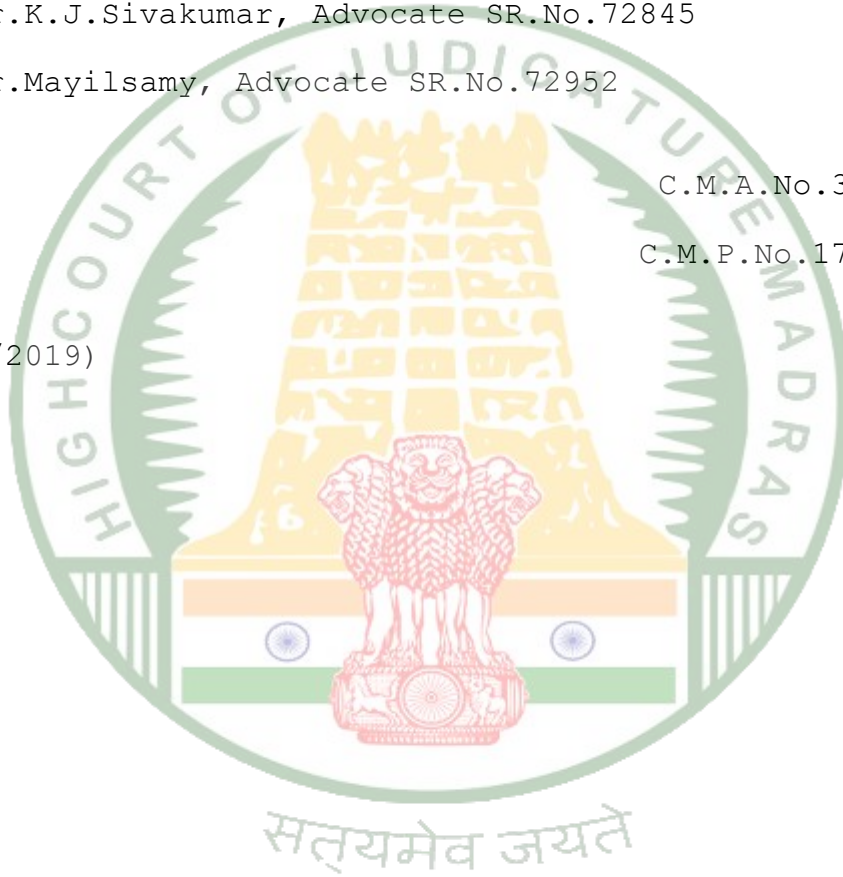
2.The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.K.J.Sivakumar, Advocate SR.No.72845

+1cc to Mr.Mayilsamy, Advocate SR.No.72952

C.M.A.No.3072 of 2019
and
C.M.P.No.17247 of 2019

MP (CO)
GMY (18/12/2019)



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