

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.531 of 2006
and
C.M.P.No.2028 of 2006

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd., Coimbatore.Appellant/2nd Respondent

Vs

1.K. Subramani @ Subramaniam1st Respondent/Petitioner

2.M. Balasubramanian2nd Respondent/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act
against the Judgment and decree made in M.C.O.P.No. 402 of 2003
dated 17.03.2005 on the file of Motor Accidents Claims Tribunal
(Principal Sub Court), Gopichettipalayam.

For Appellant : Mr. Rajnish Pathiyil
For Respondent-1 : Mrs. P.T.Rama Devi
For Respondent-2 : Given up

JUDGMENT

This appeal has been preferred against the Judgment and
decree dated 17.03.2005 made in M.C.O.P.No.402 of 2003 on the
file of Motor Accidents Claims Tribunal (Principal Sub Court),
Gopichettipalayam.

2.The case in brief, is as follows:

On 15.07.2003 at about 2.30 p.m., when the first respondent
herein was travelling as a pillion rider in the two wheeler
bearing Registration No.TN-38-Z-4664 belonging to one
Avinasiappan, near Anuparpalayam on the Tiruppur -Avinasi Road,
the appellant/ Transport corporation bus bearing Registration
No.TN-37-N-0667 came from the opposite direction in a rash and
negligent manner and dashed against the two wheeler. Due to the
said impact, the rider of the two wheeler succumbed to the
injuries and the pillion rider (claimant herein) sustained

grievous injuries and admitted in the C.M.C, Hospital, Gobichettipalayam. The first respondent filed a claim petition before the Tribunal claiming a sum of Rs.5,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal has awarded a sum of Rs.4,03,000/- as total compensation with interest at the rate of 6% p.a., from the date of petition.

3.Challenging the same, the appellant has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the the Tribunal has erred in giving a finding that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation. He also submitted that in any event the quantum of compensation awarded by the Tribunal is on the higher side.

5.Per Contra, the learned counsel for the first respondent has submitted that the Tribunal has correctly considered the materials and evidence available on record and has passed the impugned judgment, which does not require any interference in the hands of this Court.

6.Heard the learned counsel for the appellant and the learned counsel for the first respondent and perused the materials available on record carefully and meticulously.

7.Before the Tribunal, the injured was examined as P.W.1 who deposed that the driver of the bus was responsible for the accident. P.W.3/eye-witness to the accident has deposed that when he was riding his moped bearing Registration No.TN-33-8762, he saw the appellant's bus coming at a very high speed in a rash and negligent manner and dashed against the vehicle in which the first respondent was travelling. Considering the materials and evidence adduced on record, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation. This Court is not inclined to interfere with the said factual finding rendered by the Tribunal.

8.With regard to the quantum of compensation, the Tribunal has awarded a sum of Rs.3,84,000/- towards loss of income. The said sum has been arrived at by fixing the monthly income of the injured at Rs.4,000/- as a worker under P.W.3-Contractor of the Tamil Nadu Electricity Board, taking 50% of the amount as the actual loss of income due to 50% disability and adopting the multiplier of 16. The Tribunal has also awarded Rs.7,000/- towards medical expenses, Rs.5,000/- towards future medical

expenses, Rs.2,000/- towards transport expenses, Rs.3,000/- towards pain and suffering and Rs.2,000/- towards extra nourishment. The Tribunal has rightly considered the materials and evidence, correctly assessed the income of the injured, adopted the correct multiplier and arrived at Rs.3,84,000/- towards loss of income. The amounts awarded by the Tribunal towards other heads are also very reasonable and hence the same are confirmed.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant is directed to deposit the award amount as ordered by the Tribunal with interest and costs, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent / claimant is permitted to withdraw the same on making proper application before the Tribunal.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

srk/smn /rk

To

1. The Motor Accidents Claims Tribunal
Principal Sub Court, Gopichettipalayam.

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

+1 CC to Mrs.P.T. Ramadevi, Advocate sr 70510.

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