

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3126 of 2017
and C.M.P.No.19246 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation (Coimbatore) Limited,
Chennimalai Road, Erode. .. Appellant/5th Respondent

Vs.

1.Sundarambal ..1st Respondent/Petitioner
2.D.Mangalasamy
3.M.Gunasekaran
4.National Insurance Company Ltd.,
No.63, West Pradhakshinam road,
Karur - 639 002. .. Respondent 2 to 5/Respondents 1 to 4
5.Appusamy ... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.09.2016, made in M.C.O.P.No.121 of 2015, on the file of the Motor Accident Claims Tribunal, Special Sub Court, Erode.

For Appellant : Mr.K.J.Sivakumar

For R4 : Mrs.N.B.Surekha

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 30.09.2016, made in M.C.O.P.No.121 of 2015, on the file of the Motor Accident Claims Tribunal, Special Sub Court, Erode.

2.Heard the learned counsel appearing for the appellant and perused the materials available on record.

3.The appellant-Transport Corporation is 5th respondent in M.C.O.P.No.121 of 2015, on the file of the Motor Accident Claims Tribunal, The Special Subordinate Judge, Erode. The 1st respondent filed the said claim petition, claiming a sum of Rs.2,00,000/- as compensation for the injuries sustained by her in the accident that took place on 01.12.2014. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred 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.1,94,600/- as compensation to the 1st respondent. Challenging the said award dated 30.09.2016, made in M.C.O.P.No.121 of 2015, granting compensation to the 1st respondent, the appellant-Transport Corporation has come out with the present appeal.

4.The contention of the learned counsel appearing for the appellant-Transport Corporation that the Tribunal erred in fixing negligence on the part of the driver of the bus belonging to the appellant-Transport Corporation and liability on the appellant-Transport Corporation and the amounts awarded by the Tribunal under various heads are excessive, are contrary to the materials on records. The Tribunal has considered the evidence of first respondent as P.W.5, who is injured eye witness and Ex.Pl/F.I.R registered against the driver of the bus belonging to the appellant-Transport Corporation and held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation. The Tribunal has considered the evidence of P.W.6-Doctor who assessed the percentage of disability suffered by the 1st respondent as 30% and awarded a sum of Rs.60,000/- towards permanent disability for 30% of disability at the rate of Rs.2,000/- per percentage. The Tribunal considered the entire materials on record and awarded a total sum of Rs.1,94,600/- as compensation to the first respondent/claimant. The compensation awarded by the Tribunal is just compensation and not excessive. I do not find any error in the award passed by the Tribunal warranting interference by this Court.

5.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.1,94,600/- awarded by the Tribunal as compensation to the 1st respondent/claimant, along with interest and costs is confirmed. 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 twelve weeks from the date of receipt of a copy of

this judgment to the credit of M.C.O.P.No.121 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 filling necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

pds/krk

To

1.The Special Subordinate Judge,
Motor Accident Claims Tribunal,
Erode.

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

+1cc to Mr.N.B.Surekha, Advocate SR.No.6776

+1cc to Mr.KJ.Sivakumar, Advocate SR.No.6684

C.M.A.No.3126 of 2017
and C.M.P.No.19246 of 2017

KJ (CO)
GMY (29/05/2019)

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