

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3129 of 2018
and
C.M.P.No.23739 of 2018

The Managing Director,
Tamil Nadu State Transport
Corporation, Kumbakonam.

Appellant/Respondent

Vs.

Logammal

Respondent/Claimant

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.01.2018 made in M.C.O.P.No.85 of 2016 on the file of the Motor Accident Claims Tribunal, II Additional District Sessions Judge, Chidambaram.

For Appellant : Mr.D.Venkatachalam

For Respondent : Mr.T.Gopinath

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the judgment and decree dated 30.01.2018 made in M.C.O.P.No.85 of 2016 on the file of the Motor Accidents Claims Tribunal, II Additional District Sessions Judge, Chidambaram.

2.By consent of both the parties, this Civil Miscellaneous Appeal is taken up for final disposal at the admission stage itself.

3.The respondent is the claimant in M.C.O.P.No.85 of 2016 on the file of the Motor Accident Claims Tribunal, II Additional District Sessions Judge, Chidambaram. She has filed the above claim petition claiming a sum of Rs.8,00,000/- as compensation for the injuries sustained by her in the accident that took place on 17.12.2015.

4.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 appellant bus and directed the respondent to pay the compensation to the petitioner/claimant and awarded a sum of Rs.1,48,000/- as compensation.

5.Against the said award dated 30.01.2018 made in M.C.O.P.No.85 of 2016, the appellant/Transport Corporation has come out with the present appeal challenging the award fastening the liability on them.

6.The learned counsel appearing for the appellant contended that the Tribunal erred in adopting multiplier method in the absence of any functional disability. When the respondent suffered 10% disability for part of the body, the amount awarded by the Tribunal for pain and suffering is excessive and prayed for setting aside the award passed by the Tribunal.

7.Per contra, the learned counsel appearing for the respondent contended that the respondent was doing milk vending business as well as working as labour in construction work assisting mason earning a sum of Rs.300/- to 400/- per day. Due to fracture on hip and other injuries, she could not do the work as she was doing earlier before the accident. The Tribunal, considering the evidence and materials available on record, awarded compensation by adopting multiplier method by giving valid reasons. There is no error in the award of the Tribunal warranting interference by this Court.

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

9.From the award of the Tribunal, it is seen that the respondent examined herself as PW1 and spoke about the injuries. In addition to that, the respondent has produced two discharge summaries, medical bills and disability certificate issued by the Medical Board and the Tribunal, considering the documents filed by the respondent, held that the respondent could not do work as she was doing earlier and adopted multiplier method and granted compensation to the first respondent. The Tribunal, considering the age and nature of injuries, awarded amounts under different heads, which are not excessive. I do not find any error in the said award of the Tribunal warranting interference by this Court.

10.In the result, the Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is confirmed. The appellant/Transport Corporation is directed to deposit the

entire amount awarded by the Tribunal along with accrued interest and costs, less the amount 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 entire award amount along with interest and costs, less the amount, if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

sms/rpl

To

1.The Motor Accidents Claims Tribunal,
II Additional District Sessions Judge,
Chidambaram.

+1cc to Mr.T.Gopinath, Advocate, S.R.No. 3861

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No. 3789

C.M.A.No.3129 of 2018
and

C.M.P.No.23739 of 2018

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