



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 22.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY****C.M.A(MD)No.1687 of 2008****and****M.P. (MD)Nos.1 of 2008 and 1 of 2009**

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Tamil Nadu State Transport
Corporation Ltd.,
Rep. by its Managing Director,
Erode.

... Appellant / Respondent

versus

M.Chandiran

... Respondent / Petitioner

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 09.01.2006 made in M.C.O.P.No.1045 of 2002 on the file of the Motor Accident Claims Tribunal (Additional District and Sessions Court, Fast Track Court No.I), Tiruchirapalli.

For Appellant : Mr.M.Prabhakaran

For Respondent : Mr.B.Prasana Vinoth

JUDGMENT

The claimant M.Chandran, aged about 21 years, a Supervisor and earning a sum of Rs.3,000/- p.m. met with an accident on 04.10.1999 and sustained injuries. Hence, he filed a petition in M.C.O.P.No. 1045 of 2002 on the file of the Motor Accident Claims Tribunal (Additional District and Sessions Court, Fast Track Court No.I), Tiruchirapalli, claiming compensation of Rs.3,00,000/-.The Tribunal, after considering the oral and documentary evidence, awarded a sum of Rs.1,95,000/- which is payable by the Transport corporation along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. Challenging the liability as well as the quantum of compensation, the Transport Corporation has filed the present appeal.

2. The learned counsel appearing for the appellant Transport Corporation contended that the accident had occurred due to the rash and negligent riding of the rider of the vehicle, but, the Tribunal had come to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the bus. It is further submitted by the learned counsel that based on the complaint given by a third party, FIR was registered, wherein, it was stated that the accident had occurred due to the rash and negligent driving of the rider of the vehicle. But, the Court below has refused to accept the same. The learned counsel further submitted that the



driver of the bus only took the injured and admitted him in the hospital. However, the Tribunal has not considered the same. Therefore, the finding rendered by the Tribunal is unsustainable in law.

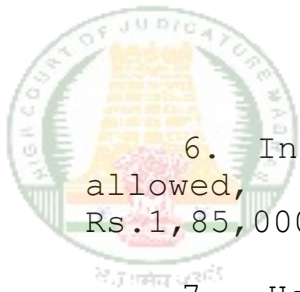
3. The counsel appearing for the respondent would contend that the award of the Tribunal with regard to fixation of liability as well as quantum of award is just and proper and the same does not requires the interference of this Court. The said contention of the appellant with regard to negligence and liability cannot be accepted for the reason that the driver of the bus, instead of giving a complaint with regard to the accident, simply admitted the injured in the hospital and left the place, which shows that due to the guiltiness, he has not given any complaint; therefore, a third party had given the complaint; furthermore, it is only a statement without any proof by letting oral and documentary evidence. Therefore, the Tribunal has come to the conclusion that due to the guiltiness, the driver of the bus has not given any complaint and in the FIR, it has been clearly stated that the accident occurred due to the rash and negligent driving of the bus driver and the driver of the bus nowhere given any complaint against the incident and hence, the Tribunal fixed the entire liability as against the Transport Corporation. Accordingly, this Court does not find any infirmity in the findings rendered by the Tribunal with regard to the fixation of liability.

4. With regard to the quantum of compensation, the learned counsel appearing for the appellant contended that the Tribunal has awarded compensation for pain and sufferings under three different heads, one is for Rs.25,000/- towards pain and suffering for fracture in the chin and Rs.45,000/- towards pain and suffering for fracture in right thigh and Rs.40,000/- towards pain and sufferings for fracture in the left leg below the knee. Therefore, he contended that pain and suffering can be awarded under only one head and not for each and every parts.

5. In view of the above, this Court is inclined to award a sum of Rs.1,00,000/- for pain and sufferings instead of Rs.1,10,000/- awarded by the Tribunal under three different heads. The Tribunal has awarded a sum of Rs.56,000/- towards permanent partial disability and Rs.29,000/- towards medical expenses, which are just and reasonable and therefore, the same are hereby confirmed. Therefore, the compensation awarded by the Court below stands revised to Rs.1,85,000/- instead of Rs.1,95,000/-. The break-up details of the revised compensation read as follows:

Pain and sufferings	-	Rs. 1,00,000/-
Medical Bills	-	Rs. 29,000/-
Permanent Partial disability-		Rs. 56,000/-

Total	-	Rs. 1,85,000/-
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6. In the result, the Civil Miscellaneous Appeal is partly allowed, modifying the award amount from Rs.1,95,000/- to Rs.1,85,000/-.

7. Hence, the Transport Corporation is directed to deposit the amount along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, less the amount already deposited if any, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the same directly to the claimant's Bank Account through RTGS within a period of three weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

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To

The Additional District and Sessions Judge,
Fast Track Court No.I,
Motor Accident Claims Tribunal
Tiruchirapalli.

Copy to: The Section Officer, (2 copies)
V.R.Section,
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-100733[F] dated 22/11/2019

C.M.A(MD)No.1687 of 2008

22.11.2019

SMA/12/02/2020/3P/5C