

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2230 of 2013

and

MP No.1 of 2013

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Chennimalai Road,
Erode.

...Appellant/Petitioner/ 2nd Respondent

versus

1. Vijaya ... 1st Respondent/1st Respondent/Claimant

2. M.Raman ... 2nd Respondent/2nd Respondent/3rd Respondent

3. The New India Assurance Company Ltd.
Having office at No.82,
Dr. Thirumalai plaza 1st Floor,
New Dharapuram Road,
Palani.

...3rd Respondent/3rd Respondents/
4th Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the fair and decretal by the Motor Accidents Claims Tribunal, Fast Track Court No.III, Dharapuram made in I..A No.801 of 2009 in MCOP No.550 of 2008, dated 15.06.2010.

For Appellant : Mr.A.Sundaravadhana

For Respondents : Mr.S.R.Sumathy for R3
Not ready in notice
reg - R1 & R2

JUDGMENT

(This case was heard through Video Conferencing)

This appeal has been filed by the Transport Corporation challenging the order dated 15.06.2010 passed by the Motor Accidents Claims Tribunal (Additional District & Sessions Judge, Fast Track Court - III), Dharapuram in I.A. No.801 of 2009 in MCOP No.550 of 2008.

2.The Motor Accidents Claims Tribunal (Additional District & Sessions Judge, Fast Track Court - III), Dharapuram, passed an ex-parte award in MCOP No.550 of 2008

directing the appellant / Transport Corporation to pay the first respondent / claimant a compensation of Rs.75,000/- together with interests and costs, as detailed hereunder :

Heads	Amount awarded by the Tribunal (Rs.)
Disability @ 24% ((1750 x 24%)	42000
Pain and suffering	20000
Medical expenses	2500
Transportation	2500
Nutritious Food	3500
Partial income loss	4500
Total	75000

3. The appellant / Transport Corporation has filed an application to set aside the ex-parte award passed against them in I.A. No.801 of 2009. By the impugned order dated 15.06.2010, I.A. No.801 of 2009 was dismissed by the Trial Court. Aggrieved by the same, this appeal has been preferred.

5. Heard Mr.A.Sundaravadhanan, learned counsel for the appellant / transport Corporation and Ms.S.R.Sumathy, learned counsel for the third respondents. Since this Court is going to confirm the impugned order passed by the Tribunal, notice to R1 and R2 are dispensed with.

6. This Court has perused the materials and evidence available on record before the Tribunal.

7. The Trial Court under the impugned order has observed that the appellant / Transport Corporation did not file any counter in the main MCOP i.e. MCOP No.550 of 2008, despite granting sufficient time. Only on that ground, the Trial Court has rejected I.A. No.801 of 2009. The Trial Court has observed that no sufficient reasons have been given by the appellant / Transport Corporation to set aside the ex-parte award. The award passed against the appellant / Transport Corporation in favour of the first respondent / claimant is only for a sum of Rs.75,000/-. The first respondent / claimant has sustained injuries and was an inpatient in the hospital for a period of 14 days. As seen from the evidence available on record, the nature of injuries sustained by the first respondent / claimant would have certainly entitled her to get a compensation of Rs.75,000/-, as fixed by the Tribunal. No useful purpose would be served, if this appeal, which arises out of an order dismissing the application to set aside an ex-parte award is entertained at this stage, that too after a lapse of thirteen years from the date of the accident,

which happened on 21.11.2007. Further as rightly contended by the Trial Court in the impugned order, the appellant / Transport Corporation has not given sufficient reasons for setting aside the ex-parte award.

8. In the result, there is no merit in this appeal and accordingly, the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

9. The appellant / Transport Corporation is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of MCOP No.550 of 2008, on the file of the Motor Accident Claims Tribunal, Fast Track Court No.III, Dharapuram, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the first respondent / claimant through RTGS, within a period of two weeks thereafter.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vs12

To

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

Copy To

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

+1cc to Mr.A.Sundaravadhanan, Advocate, S.R.No. 32336

C.M.A.No.2230 of 2013

VBA(CO)
GN(22/04/2021)