

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2624 of 2013

Metropolitan Transport Corporation Ltd.,
Represented by its Managing Director,
No.2, Pallavan Salai,
Chennai-600 002.

... Appellant/Respondent

..Vs..

B.Chandrasekar

... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 23.08.2010 passed in MCOP. No.312 of 2008 by the learned Additional District Judge, Fast Track Court-IV, Motor Accident Claims Tribunal, Ponneri.

For Appellant : Mr.S.S.Swaminathan

For Respondent : No such person

JUDGMENT

(This Appeal was taken up for hearing through Video Conferencing)

This appeal has been filed by the appellant/transport corporation challenging the award dated 23.08.2010 passed by the Motor Accident Claims Tribunal (Additional District Court, Fast Track Court-IV), Ponneri in MCOP.No.312 of 2008.

Brief facts leading to the filing of this Appeal:

2. The Appellant is a Transport Corporation. The respondent sustained injuries as a result of an accident caused by a bus bearing registration No. TN 01 N 2930 owned by the appellant. The case of the claimant before the Tribunal was that on 15.05.2006, at about 21.15 hours, when the respondent/claimant tried to board into the bus towards High Court, Chennai at Agasthiya Theatre, TH Road, Tondiarpet, Chennai, the driver of the bus started the vehicle without any indication or signal from the conductor. Due to the said incident, the respondent fell down from the bus and sustained injuries. The respondent preferred a claim petition before the Motor Accident Claims

Tribunal for the injuries sustained by him seeking compensation from the appellant/ transport corporation.

3. The Motor Accident Claims Tribunal by its award dated 23.08.2010 passed in MCOP.No.312 of 2008, directed the Appellant/ transport corporation to pay a compensation for a sum of Rs.2,28,000/- together with interest and costs as detailed hereunder:

Sl.No.	Heads	Awarded by the Tribunal (Rs.)
1	Disability	1,25,000/-
2	Pain and sufferings	15,000/-
3	Transportation & Extra- nourishment	8,000/-
4	Medical Bills	80,000/-
	Total	2,28,000/-

4. Aggrieved by the same, the appellant/transport corporation has preferred this instant appeal.

5. It is the contention of the appellant that only due to the negligence on the part of the claimant, the accident had happened, as a result of which the claimant sustained injuries. According to them, the accident occurred when the injured attempted to board the moving bus and therefore, he is liable for contributory negligence. However, according to them, the Tribunal has not considered these aspects and mulcted the entire liability on the appellant. It is also the contention of the appellant that the Tribunal erred in awarding a sum of Rs.1,25,000/- for the injuries sustained by the claimant, even without fixing the percentage of the disability and not even considering the medical evidence of P.W.2-the Doctor. It is also their case that the Tribunal ought not to have awarded Rs.15,000/- towards pain and sufferings to the claimant.

6. Heard Mr.S.S.Swaminathan, learned counsel for the appellant/transport Corporation. Since this Court is going to confirm the award, notice to the respondent is dispensed with.

7. Before the Tribunal, the respondent/claimant has filed ten documents, which were marked as Exs.P1 to P10 and two witnesses were examined on his side, namely, the respondent himself as PW1 as well as the doctor (PW2), who examined him and issued the disability certificate. On the side of the

respondent, one witness was examined as RW1 and there was no document marked.

8. As seen from the evidence available on record before the Tribunal, the appellant has not disputed the nature of injuries sustained by the respondent/claimant. They are only questioning the findings of negligence as well as questioning the quantum of compensation awarded towards disability at Rs.1,25,000/- and Rs.15,000/- towards pain and suffering. In support of his claim, the respondent has filed the discharge summaries issued by the Stanley Government Hospital, which was marked as Ex.P2 and Apollo Hospital, which was marked as Ex.P3. The disability certificate has also been filed, which has been marked as Ex.P9. However, the appellant has not adduced any oral or documentary evidence to disprove the contention of the respondent before the Tribunal.

9. As seen from the impugned award, the Tribunal has considered the oral and documentary evidence adduced by both the parties and only thereafter, has come to the conclusion that the respondent is entitled for a compensation of Rs.2,28,000/- under various heads, which includes the disability compensation at Rs.1,25,000/- and Rs.15,000/- towards pain and suffering, which has been challenged by the appellant in this appeal.

Conclusion:

10. Considering the year of the accident and in view of the fact that the nature of injuries as well as the avocation of the respondent has not been disputed, as seen from the evidence available on record before the Tribunal, this Court is of the considered view that the grounds raised by the appellant in this appeal does not deserve any merit. Accordingly, this Appeal shall stand dismissed. सत्यमेव जयते

11. The Appellant/Transport Corporation is directed to deposit the Award amount together with interest from the date of claim till the date of deposit and costs to the respondent as assessed by the Tribunal after deducting the amount, if any, already deposited to the credit of MCOP.No.312 of 2008 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the respondent is permitted to withdraw the award amount lying to the credit of MCOP.No.312 of 2008 along with accrued interest by filing an

ditional District Judge,
Track Court-IV, Motor Accident Claims Tribunal,
Tirunelveli.

Commissioner
of Motor Vehicle Insurance, High Court of Madras.

Mr. S.S. Swaminathan Advocate sr24994 C.M.A.No.2

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सत्यमेव जयते

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