

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.597 of 2016
and
C.M.P.No.4847 of 2016

The Managing Director,
Tamilnadu State Transport Corporation Limited,
3/137, Salamedu, Vazhuthareddy,
Villupuram. ... Appellant/Respondent

Vs.

R.Balamurugan ... Respondent/Claimant

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, (ACT IV of 1989), against the judgment and decree passed by the Motor Accident Claims Tribunal at Cuddalore(1st Additional Subordinate Judge, Cuddalore) in M.C.O.P.No.1401/2010 dated 14.03.2014 for awarding compensation.

For Appellant : Mr.C.S.K.Sathish

For Respondent : M/s.Ramya V Rao

J U D G M E N T

The civil miscellaneous appeal is filed against the judgment and decree dated 14.03.2014 passed in M.C.O.P.No.1401/2010.

2. The Tribunal has awarded a sum of Rs.5,14,330/- as compensation. The appeal is filed mainly on the ground that there is no proof of negligence available to fall within the scope of the driving of the Transport Corporation Bus Driver.

3. The appellant has contended that the Tribunal has not summoned the independent witnesses, so as to establish the negligence and therefore, the amount awarded is highly disproportionate and not in conformity with the settled principles. The Multiplier of 45% based on Ex.P11 and 40% based on Ex.P.13 is also untenable.

4. However, the learned counsel appearing on behalf of the respondent/claimant brought to the notice of this Court that the entire award amount had already been deposited and the respondent/claimant also had withdrawn the entire award amount with accrued interest.

5. This being the factum, no useful purpose would be served in the event of considering all these grounds. Even otherwise also, the Tribunal has considered the facts, circumstances as well as the evidences produced by the respective parties. The Tribunal arrived a conclusion that the accident occurred due to the rash and negligent driving of the Transport Corporation Bus Driver and as far as the quantum of compensation is concerned, Ex.P3, Xerox copy of the Accident Register and Ex.P4, Ex.P6 & Ex.P7, the discharge summaries were also considered. Thus, the Tribunal has considered the disability certificate and based on the Doctor's evidence, arrived a conclusion and fixed the disability of 45% and accordingly, calculated the compensation.

6. This being the facts and circumstances, this Court do not find any infirmity as such with reference to the compensation awarded, which is otherwise a just compensation.

7. Consequently, the judgment and decree dated 14.03.2014 passed in M.C.O.P.No.1401/2010 is confirmed and the Civil Miscellaneous Appeal in C.M.A.No.597 of 2016 stands dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Kak
To

1.The 1st Additional Subordinate Judge,
(Motor Accidents Claims Tribunal),
Cuddalore.

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

+1cc to Mr.C.S.K.Sathish, Advocate Sr.18876

C.M.A.No.597 of 2016

rr[co]
srg 26/03/2021