

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1672 of 2018  
and  
C.M.P.No.13153 of 2018

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

..Appellant/2<sup>nd</sup> Respondent

Vs.

1.Balaji

2.Sundaramoorthy

..Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 25.11.2014 made in M.C.O.P.No.173 of 2010 on the file of the Motor Accident Claims Tribunal, III Additional District Judge, Puducherry.

For Appellant : Mr.K.J.Sivakumar

For Respondent : M/s.P.V.Rajeswari [For R1]  
R2 - Person not found

J U D G M E N T

The Civil Miscellaneous Appeal is filed against the award dated 25.11.2014 made in M.C.O.P.No.173 of 2010 on the file of the Motor Accident Claims Tribunal, III Additional District Judge, Puducherry.

2. The learned counsel appearing on behalf of the appellant mainly contended that the Trial Court has not considered the evidence of PW1, which is not corroborated with the other independent witnesses. Mere filing of an First Information Report(FIR) against the Driver of the appellant Transport Corporation is insufficient to held that the Driver of the Bus has committed an act of negligence. The permanent disability of 40% fixed by the Trial Court is excess and not in commensuration with the nature of the injuries sustained by the victim.

3. At the outset, the award of the Trial Court is perverse and liable to be set aside. The claimants defended the appeals by stating that the Trial Court has considered the evidences submitted by the claimants and the award was passed, taking note of the First Information Report (FIR) as well as the evidences produced by the claimants before the Tribunal and there is no perversity as such.

4. The accident occurred on 17.05.2008 at about 5.30 p.m., while the 1<sup>st</sup> respondent / claimant was returning to his house in his scooter with his friend Manoharan, who drove the scooter and the 1<sup>st</sup> respondent / claimant was the Pillion rider. When they were returning from SRM University from north to south direction at Madhuranthagam, TN-32-N-2668 came in a rash and negligent manner from East to West side and hit against the 1<sup>st</sup> respondent / Claimant. The Claimant and his friend fell down on the road and sustained fracture on the left leg between knee and angle, both bones and other injuries. The claimant was taken to G.H.Madhuranthagam, after giving first aid and thereafter, he was admitted in PIMS Hospital, Puducherry from 18.05.2008 till 13.06.2008.

5. On the side of the Claimant, PW1 and PW2 were examined and marked Ex.P1 to Ex.P19. On the side of the Transport Corporation, RW1 was examined. While considering the negligence, the Tribunal made a finding that act of the evidence of the claimant, the Driver of the Transport Corporation Bus drove the bus in a rash and negligent manner and therefore, he is responsible for the accident. To establish the statement, the claimant marked Ex.P1 / copy of FIR, registered by Madhuranthagam Police in Crime No:452/2008 u/s 279, 337 and 338 IPC. Based on the complaint given by one Manoharan, the case was registered by the Police and even in the complaint, it was stated that the Bus Driver was driving the Bus in a rash and negligent manner. The Bus Driver is an Accused in the FIR and Ex.P2/Wound Certificate also reveals the claimant had taken treatment after the accident. The Discharge Summary was marked as Ex.P8. Based on these evidences as well as the deposition of PW1 and PW2, the Tribunal arrived a conclusion that the accidents occurred due to the negligence of the Driver of the Transport Corporation Bus.

6. As far as the quantum of compensation is concerned, the claimant sustained fracture. The Doctor issued a Disability Certificate, which is marked as Ex.P18. The X-ray is marked as Ex.P17. As per the Medical officer, there is malunion of Tibia left leg and Fibula of the left leg, shortening of leg by  $\frac{1}{2}$  inch and so the disability is fixed at 46%. Accordingly, a decision was arrived that the disability is 40%. The claimant was aged

about 21 years and the compensation was calculated, taking the disability as 40% by the Tribunal.

7. Careful scrutiny of the findings of the award, this Court do not find any excessiveness in awarding just compensation by the Motor Accident Claims Tribunal. The claimant was aged about 21 years and he is sustained 40% disability.

8. Under these circumstances, this Court is not inclined to interfere with the findings of the award as well as the quantum of the compensation granted. Accordingly, the award passed by the Motor Accident Claims Tribunal dated 25.11.2014 passed in M.C.O.P.No.173 of 2010 stands confirmed. Consequently, C.M.A.No.1672 of 2018 is dismissed.

9. The appellant / Tamil Nadu State Transport Corporation, Villupuram Region, is directed to deposit the entire award amount with accrued interest, within a period of twelve weeks from the date of receipt of a copy of this judgment, if not already deposited. On such deposit, the respondents/claimants are permitted to withdraw the entire award amount with accrued interest by filing an appropriate application and the payments are to be made through RTGS.

10. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-V)

//True copy//

Sub Assistant Registrar

Kak

To

1.The Motor Accident Claims Tribunal,  
III Additional District Judge,  
Puducherry.

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

C.M.A.No.1672 of 2018

VG II(CO)  
GMY(19/11/2020)