

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.3259 of 2019
and
C.M.P.No.18728 of 2019

The Managing Director,
Tamil Nadu State Transport Corporation,
Railway Station Road,
Kumbakonam Town & Munsiff. ...Appellant/Respondent

Vs.

Indarpal @ Indhirabalu ...Respondent/Claimant

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, against the Judgment and decree dated 09.11.2018 made in M.C.O.P.No.120 of 2016 on the file of the Motor Accident Claims Tribunal, Sub Judge, Mannarkudi.

For Appellant : Mr.D.Venkatachalam

For Respondent : Mr.D.Lakshmi Pathy

J U D G M E N T

The Civil Miscellaneous Appeal is filed against the judgment and decree dated 09.11.2018 made in M.C.O.P.No.120 of 2016 on the file of Motor Accident Claims Tribunal, Sub Judge, Mannarkudi.

2. The Tamil Nadu State Transport Corporation Limited, Kumbakonam, is the appellant and the learned counsel appearing on behalf of the appellant mainly contended that the Tribunal had erroneously fixed the disability as 24% without any proof. The Tribunal has not taken the whole body for the purpose of assessing the loss of earning capacity.

3. At the outset, it is contended that in the absence of any proof, the Tribunal ought not to have taken the loss of earning capacity as 14% and it is on higher side and therefore, the award is liable to be set aside. This apart, the Tribunal has

fixed a sum of Rs.6,000/- as monthly income of the deceased, which is also improper.

4. The accident occurred on 30.11.2013 at about 07.45 hrs., at Keezhanalanallur near Pallivasal. Mannargudi Taluk Police registered a case in Crime No.277/2013 under Sections 279, 337 of I.P.C.

5. The claimant sustained injuries of fracture hip, fracture left Ilium, Abrasion all over the body.

6. The Claim Petition was filed, seeking compensation and the Tribunal adjudicated the issues with reference to the documents and evidences produced by the respective parties. The Tribunal arrived a conclusion that the accident occurred on account of the negligence committed by the Driver of the Transport Corporation Bus as he was driving the bus in a rash and negligent manner. Therefore, the claimant is entitled for compensation. As far as the quantum of compensation is concerned, the Tribunal fixed 14% disability and accordingly, calculated the loss of income. In view of the fact that the claimant sustained hip injury and he was doing a Popcorn business in a bicycle, certainly, the injury would affect the normal life and he will not be in a position to run his business in a normal manner.

7. Thus, this Court is of the considered opinion that there is no excessiveness in fixing the disability as 14% as well as the fixation of monthly income, which is undoubtedly reasonable. For Pain and Suffering, a sum of Rs.35,000/- is granted and for Transport expenses and nourishment, a sum of Rs.10,000/- is granted.

8. Under these circumstances, this Court do not find any error or grant of exorbitant compensation by the Motor Accident Claims Tribunal and in fact, the compensation is just and proper and therefore, this Court is not inclined to interfere with the quantum of compensation awarded by the Tribunal.

9. Thus, the judgment and decree dated 09.11.2018 passed in M.C.O.P.No.120 of 2018 stands confirmed and consequently, the Civil Miscellaneous Appeal in C.M.A.No.3259 of 2019 is dismissed. No costs.

10. The appellant / Tamil Nadu State Transport Corporation 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 and on such deposit, the respondent/claimant is permitted to withdraw the entire award amount with accrued interest by filing

an appropriate application and the payments are to be made through RTGS.

11. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Motor Accident Claims Tribunal,
Sub Judge, Mannarkudi.
- 2.The Section Officer,
V.R Section,
High Court, Madras.

C.M.A.No.3259 of 2019

CP[CO]
SRG 23/03/2021



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