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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A. No. 3224 of 2008
and
M.P.No.1 of 2008

The Managing Director,
Karnataka State Road Transport Corporation,
Karwar Depot,
Karnataka State

...Appellant/Respondent
Vs.

S. Senthil Kumar,
Son of Mr. Selvaraj,
Panagal Street,
Kaveripatnam Post,
Krishnagiri Taluk,
Dharmapuri District.

...Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act against the decree and order dated 13.07.2007 passed in M.C.O.P.No. 284 of 2003 by the Additional District Judge, Motor Accident Claims Tribunal, Dharmapuri.

For Appellant : Mr. T. Thiyagarajan

For Respondent : No appearance

J U D G M E N T

Aggrieved by the Award passed by the Tribunal, the Karnataka State Road Transport Corporation, Karwar Depot has filed the present Appeal.

2. The claimant/ respondent has filed a claim petition before the Tribunal seeking compensation of Rs.7,00,000/- for the injuries sustained by him in a road accident that occurred on 05.07.2002.

3. Brief case of the Respondent/claimant is as follows: On 05.07.2002 at 9.15. a.m., while the claimant was driving a lorry bearing registration No.KAO-1C-9297 from Gangavathi at Karnataka State to Gangeyam in Tamil Nadu State and while nearing



Bramachandra Gate at National Highways, Sira Taluk, Karnataka, a speedy bus bearing registration No.31/F-664 (KSRTC), belonging to the Appellant Transport Corporation, coming from Bangalore to Karwar, dashed against the lorry, due to which, the driver of the bus died on the spot and 12 passengers sustained injuries. It is contended that the claimant sustained injuries all over his body and he was admitted in the Government Hospital at Sira and subsequently, he was shifted to S.Palaniandi Mudaliar Memorial Hospital, for better treatment. According to the claimant, the rash and negligent driving of the driver of the bus was the cause of accident and hence, the Appellant Transport Corporation are liable to pay compensation to the claimant.

4. The Appellant/Transport Corporation resisted the claim petition by filing a counter affidavit stating that, due to the negligent driving of the driver of the lorry, the lorry and the bus had collided with each other, and there was no negligence on the part of the driver of the bus belonging to their Corporation. It is further contended that the claimant has not driven the lorry and he was just travelling in the lorry and that the Wound Certificate dated 18.07.2002 produced by him was not obtained from the Government Hospital, Sira, but, it was obtained from Palaniyandi Mudaliar Hospital, Salem, and hence that document is denied. The contention of the appellant is that the owner and the insurer of the lorry were not impleaded as parties in the claim petition and since the negligence is entirely on the part of the driver of the lorry, the Appellant/Transport Corporation is not liable to pay compensation to the claimant.

5. Before the Tribunal, on the side of the claimant, the claimant and two other witnesses were examined as PW1 to PW3 and Exs.P1 to P8 were marked. On the side of the Transport Corporation, no oral and documentary evidence were adduced.

6. After analysing the evidence on record, the Tribunal has awarded a sum of Rs.65,497/- as compensation to the claimant with interest at the rate of 7.5% per annum. Details of compensation awarded under various heads are below.

Sl No	Heads	Amount in Rs.
1	Permanent Disability	35,000
2	Pain and suffering	10,000
3	Loss of income	10,000
4	Transportation charges	2,000
5	Extra Nourishment	1,000



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Sl No	Heads	Amount in Rs.
6	Medical expenses as per medical bills	7,497
	Total	65,497

7. Heard the learned counsel for the appellant and perused the material documents on record.

8. The learned counsel appearing for the appellant/Karnataka State Transport Corporation submitted that the accident occurred only due to the negligence on the part of the driver of the lorry and in the absence of any valid documents, the Tribunal has fixed the monthly income of the claimant at Rs.5,000/- and has awarded more amount as compensation and hence the Award passed by the Tribunal is liable to be set aside.

9. Before the Tribunal, it was the contention of the claimant that, he was aged 27 years on the date of accident and he was a driver by profession and was earning more than Rs.5000/- per month and that in view of the accident, he sustained grievous injuries on his thigh and left wrist and his vision is also affected. It was further contended by the claimant that he sustained fracture in his left hand and decital Radius and surgery was made, as a result of which, he could not drive lorry by using his left hand forcedly. Further, due to operation in the right thigh, his right hip-joint got tightened and hence, he is unable to squat and stand. The claimant has also stated that he underwent treatment as inpatient for about two months and spent huge amount towards medical expenses. The claimant has produced Ex.P2- Wound Certificate and Ex.P3-Disability Certificate, in which the permanent disability of the claimant was assessed at 30 to 35%.

10. Considering all the above facts and the nature of injuries and fractures sustained by the claimant and after analysing the medical records, the Tribunal has awarded a just and reasonable compensation of Rs.65,497/-, which is very nominal and hence, this Court does not find any reason to interfere with the same.

11. In the result,

(i) the Civil Miscellaneous Appeal is dismissed. No costs. The award passed by the Tribunal is upheld. The connected miscellaneous petition is closed.

(ii) The appellant is directed to deposit the amount as awarded by the Tribunal with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit,



less the amount if any, already deposited, within a period of two months from the date of receipt of a copy of this order.

(iii) On such deposit being made by the appellant, the Respondent/Claimant is at liberty to withdraw the same, after following due process of law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mst

To

The Additional District Judge,
Motor Accident Claims Tribunal,
Dharmapuri.

Copy To

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

+1cc to Mr.T.Thiyagarajan, Advocate, S.R.No.41302

CMA. No.3224 of 2008

AJS (CO)
RGA (23/11/2021)