



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.NO.453 OF 2021

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Bharathipuram,
Dharmapuri - 636 705. ...Appellant / Respondent

Vs.

Lakshamma ...Respondent / Petitioner

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 10.04.2014 made in M.C.O.P.No.220 of 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Hosur.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

This Civil Miscellaneous Appeal has been filed to set aside the award dated 10.04.2014 made in M.C.O.P.No.220 of 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Hosur.

2.The appellant is the respondent in M.C.O.P.No.220 of 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Hosur. The respondent filed the above said claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by her in the accident that took place on 02.12.2011.

3.According to respondent, on 02.12.2011 at about 01.30 P.M., she along with the claimants in M.C.O.P.Nos.219, 221, 222, 225 & 226 of 2012 was travelling in the Mahindra Pickup Van (Luggage Tempo) bearing Registration No. KA 05 C 8732 on Krishnagiri - Hosur NH-7 Road, from Vannalvadi to Siddanapalli Village. Near Perandapalli Bridge, the driver of the Tempo was driving the Tempo slowly behind the lorry which was proceeding ahead of the Tempo. At that time, the driver of the bus bearing Registration No.TN 29 N 1782 belonging to appellant-Transport Corporation, drove the bus in a rash and negligent manner on the same direction at a high speed in a rash and negligent manner, dashed behind the Tempo and caused the accident. In the



accident, the respondent sustained multiple injuries all over her body. Immediately after the accident, the respondent was taken to Government Hospital, Hosur. Thereafter, she has taken treatment as outpatient from Dr.D.V.Gandhi, Orthopaedic Surgeon, Taluk Office Road, Hosur. Therefore, the respondent filed the said claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by her against the appellant-Transport Corporation.

4.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to appellant-Transport Corporation and directed the appellant to pay a sum of Rs.2,94,000/- as compensation to the respondent.

5.Challenging the quantum of compensation awarded by the Tribunal in the award dated 09.04.2014 made in M.C.O.P.No.220 of 2012, the appellant-Transport Corporation has come out with the present appeal.

6.The learned counsel appearing for the appellant contended that the respondent failed to prove her age, avocation and income. The percentage of disability assessed by P.W.7/Doctor at 45% is on the higher side. In the absence of any material evidence with regard to avocation and income, a sum of Rs.6,000/- per month fixed by the Tribunal as notional income of the respondent is excessive. The amounts awarded by the Tribunal under other heads are highly excessive and prayed for setting aside the award passed by the Tribunal.

7.Heard the learned counsel appearing for the appellant-Transport Corporation and perused the entire materials on record.

8.From the materials available on record, it is seen that it is the case of the respondent that she was aged 40 years, working as Coolie and was earning a sum of Rs.9,000/- month. But she failed to prove the said contention. It is the further contention of the respondent that in the accident she sustained multiple grievous injuries all over the body. To prove the nature of injuries and disability, she examined herself as P.W.2 and examined Dr.D.V.Gandhi as P.W.7. P.W.7/Doctor examined the respondent and certified that the respondent suffered 45% disability and issued Ex.P14/disability certificate to that effect. P.W.7/Doctor also deposed that due to the left knee tibial condyle fracture, the respondent is unable to climb up and get down staircases, sit, squat, attend natural calls and unable to do hard work as before. The Tribunal considering the evidence of P.W.7/Doctor and Ex.P14/disability certificate, awarded a sum of Rs.1,35,000/- towards disability at the rate of Rs.3,000/- per percentage of disability. The accident occurred in the year 2011 and the compensation awarded by the Tribunal



towards disability is not excessive. The Tribunal considering the age, year of accident and nature of work done by the respondent, fixed a sum of Rs.6,000/- per month as notional income of the respondent and awarded a sum of Rs.36,000/- as compensation towards loss of income for six months and the same is not excessive. The Tribunal considering the nature of injuries, disability and treatment taken by the respondent, awarded a sum of Rs.2,94,000/- as compensation, which is not excessive warranting interference by this Court.

9.In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.2,94,000/- awarded by the Tribunal as compensation to the respondent, along with interest and costs is confirmed. The appellant is directed to deposit the award amount along with interest and costs, less the amount if any already deposited, within a period of twelve weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.220 of 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Hosur. On such deposit, the respondent is permitted to withdraw the award amount along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

krk

To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Hosur.

+1cc to Mr.D.Venkatachalam, Advocate SR.No.10817

C.M.A.No.453 of 2021

GJ(CO)
RVM(01/11/2021)