



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2021

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THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

C.M.A.No.2526 of 2013
and M.P. No.1 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation (Division I),
Kaspa Town,
37, Mettupalayam Road, Coimbatore - 43.
..Appellant / 2nd Respondent

Vs.

1.Myilsamy
S/o.Thiruman ..1st Respondent / Claimant
2.Manickam
S/o.Loganayagam ..2nd Respondent / 1st Respondent
3.Govindasamy
S/o.Thirumalaisamy
4.The New India Assurance Company Ltd.,
No.47, Kumaran Shopping Complex,
Kumaran Road,
Tiruppur Kaspa Town,
Tiruppur, Tiruppur District.
(R-2 not necessary party hence given up)
..3rd & 4th Respondents / 3rd & 4th Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 05.10.2012 in M.C.O.P.No.574 of 2010 on the file of the Motor Accident Claims Tribunal, Additional District Court, FTC No.III, Dharapuram.

For Appellant	::	Mr.A.Sundara Vadhanan
For R1	::	Mr.MA.P.Thangavel
For R4	::	Mr.R.Needhiperumal



JUDGMENT
(heard through video-conferencing)

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 05.10.2012 in M.C.O.P.No.574 of 2010 on the file of the Motor Accident Claims Tribunal, Additional District Court, FTC No.III, Dharapuram.

2.The appellant is the 2nd respondent in M.C.O.P.No.574 of 2010 on the file of the Motor Accident Claims Tribunal, Additional District Court, FTC No.III, Dharapuram. The 1st respondent herein had filed the said claim petition, claiming a sum of Rs.4,00,000/- as compensation for the injuries sustained by him in a motor accident that took place on 01.05.2010.

3.According to the 1st respondent, on 01.05.2010, at about 5.30 A.M., while the 1st respondent/Myilsamy was travelling in the Eicher Van bearing Registration No.TN-38-S-8085, proceeding from South to North on the Dharapuram to Udumalai Main Road, near Thalavaipattinam Maithankarai, at that time, a TNSTC Bus bearing Registration No.TN-38-N-1092, driven by the 2nd respondent from North to South in a rash and negligent manner and without following the rules and regulations, came to his right side and hit against the Eicher Van. Due to said impact, the 1st respondent sustained injuries on his right side of clavicle region, right hand, mandible, right elbow, right side of the head and multiple injuries over his body.

4.Resisting the claim petition, the Transport Corporation has filed a counter wherein it is stated that the manner of accident narrated in the claim petition was misleading and incorrect. It is further stated that the accident had taken place only due to hectic speed and rash and negligent act of the driver of the Eicher van and not due to rash and rash and negligent driving by the driver of the bus. The FIR was registered against the driver of the Eicher van which was insured with 4th respondent/Insurance Company, based on the complaint given by one of the passengers travelled in the goods van. The vehicle, namely, Eicher goods van, involved in the accident was carrying more than 40 passengers violating the provisions of Motor Vehicles Act and against the permit condition since goods vehicle was not suppose to carry the passengers. It is also stated that the claim amount is very excessive and that the injured had not sustained grievous injuries and permanent disability in the accident.



5. Before the Tribunal, the 1st respondent, injured/claimant examined himself as P.W.8 and one Mr.K.Periyasamy, Doctor, was examined as P.W.2 and Exs.P1 to Ex.P36 were marked. On the side of the appellant/Transport Corporation, neither oral nor documentary evidence has been adduced.

6. The Tribunal, on a consideration of the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the Transport Corporation bus and directed the appellant/Transport Corporation to pay a sum of Rs.90,000/- as compensation to the 1st respondent.

7. Questioning the quantum of compensation awarded by the Tribunal vide award dated 05.10.2012 in M.C.O.P.No.574 of 2010 granting compensation to the 1st respondent, the appellant-Transport Corporation has come forward with the present appeal.

8. Mr.A.Sundara Vadhanan, learned counsel appearing for the appellant/Transport Corporation submitted that it is a batch of claim petition in which this particular claim petition only is agitated and appeal is filed regarding quantum considering the age of the victim who had suffered fracture on his shoulder and who was aged 58 years and was working as an agriculturist and also working as a loadman. As per his own statement, the monthly income is stated as Rs.8,000/- per month, whereas the Tribunal had fixed a sum of Rs.36,000/- towards loss of income due to partial permanent disability at 18% @ Rs.2,000/- per percentage, loss of income at Rs.4,000/- per month was granted for six months totalling Rs.24,000/-. A sum of Rs.5,000/- towards Transportation, Rs.20,000/- towards pain and sufferings and Rs.50,00/- towards extra nourishment. The total compensation arrived at Rs.90,000/-/.

9. Per Contra, Mr.MA.P.Thangavel, learned counsel appearing for the 1st respondent/claimant submitted that the award passed by the Tribunal is reasonable one and does not warrant any interference by this Court. The appeal has no merits and is to be dismissed.

10. Heard the learned counsel appearing for the appellant/Transport Corporation as well as the learned Counsel appearing for the 1st respondent/claimant and perused the materials available on record.



11. Whether the appeal filed by the appellant/Transport Corporation seeking to set aside the award passed by the Tribunal is to be allowed or the award is to be set aside?

Point for Consideration:

12. Perused the records in M.C.O.P.No.574 of 2010. On a perusal of the award passed by the Tribunal, it is found that a reasonable award was passed considering the age of the victim/claimant as 58 years and whose avocation is stated as agriculturist and also loadman. He having suffered fracture on his shoulder bone and the same had been assessed by a Doctor as 20% disability, the Tribunal has taken it as 18% and awarded Rs.36,000/- for disability and for loss of income at Rs.24,000/-. A sum of Rs.5,000/- towards Transportation, Rs.20,000/- towards pain and sufferings and Rs.5,000/- towards extra nourishment has also been awarded by the Tribunal. Therefore, it is found that it is a reasonable award. The submission made by the learned counsel for the appellant/Transport Corporation that the amount is excessive cannot at all be accepted by this Court and the same is found unreasonable.

13. Points for consideration are answered against the appellant/Transport Corporation. In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.90,000/- awarded by the Tribunal as compensation to the 1st respondent/claimant is confirmed. The appellant-Transport Corporation is directed to pay a sum of Rs.90,000/- as compensation to the 1st respondent/claimant along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the 1st respondent/claimant is permitted to withdraw the award amount along with interest and costs, after adjusting the amount already withdrawn, if any, by making necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Audit)

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Sub Assistant Registrar



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1.The Additional District Judge,
Motor Accident Claims Tribunal,
FTC No.III, Dharapuram.

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

+1cc to Mr.MA.P.Thangavel, Advocate, S.R.No.10957
+1cc to Mr.A.Sundaravadanan, Advocate, S.R.No.10771
+1cc to Mr.R.Neethiperumal, Advocate, S.R.No.11094

C.M.A.No.2526 of 2013
and
M.P. No.1 of 2013

LN(CO)
SB(03/09/2021)