

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 15.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CMA.No.3295 of 2012 and
M.P.No.1 of 2012

The Managing Director,
Tamil Nadu Transport Corporation Limited,
Villupuram Limited, Kancheepuram ... Appellant/respondent

Vs.

V. Sivalingam ... Respondent/ Claimant

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 27.04.2012 passed by the Principle Subordinate Judge, Motor Accidents Claims Tribunal, Chengalpattu in MCOP No.202 of 2009.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

Aggrieved over the orders passed by the Tribunal, the Tamil Nadu State Transport Corporation, Villupuram has filed the present appeal.

2. The claimant/ respondent has filed a claim petition before the Tribunal seeking compensation of Rs.5,00,000/- for the injuries sustained by him in a road accident that took place on 26.09.2008.

3. The brief case of the claimant is as follows: On 26.09.2008, at about 4.30 p.m., while the petitioner was getting into the bus bearing registration No.TN-23N 1895 (Route No.157) at Chengalpattu old bus stand, the conductor of the bus, without noticing that the petitioner was getting into the bus, gave whistle and the driver of the bus drove the bus in a rash and negligent manner, due to which the petitioner fell down from the moving bus and sustained grievous injuries. According to the claimant, the rash and negligent driving of the driver of the bus was the cause of accident and since the respondent Corporation is the owner of the vehicle, they are liable to pay compensation to the claimant.

4. The respondent Corporation resisted the claim petition by filing counter affidavit.

5. Before Tribunal, on the side of the claimant, the claimant and Dr.N.Saichandran were examined as PW1 and PW2 respectively and Ex.P1 to Ex.P12 were marked. On the side of the respondent, one witness was examined as RW1 and no documentary evidence was adduced.

6. After analysing the evidence on record, the Tribunal has awarded a sum of Rs.2,67,000/- with interest at the rate of 7.5% per annum as compensation to the claimant under various heads as extracted hereunder.

Sl No	Heads	Amount in Rs.
1	Loss of Earning Power (7,600 x 10)	76,000
2	Transportation charges	10,000
3	Extra Nourishment	5,000
4	Damages to clothes	1,000
5	Medical expenses	5,000
6	Pain and sufferings	50,000
7	Continuous permanent disability (60 x 2000)	1,20,000
8	Total	2,67,000

Aggrieved over the Award passed by the Tribunal, the appellant/ Tamil Nadu State Transport Corporation has filed the present appeal.

7. Heard the learned counsel for the appellant and I have perused the materials on record.

8. The learned counsel appearing for the appellant/ Tamil Nadu State Transport Corporation submitted that the petitioner who tried to get into the moving bus had lost grip and fell down and therefore, the entire negligence is only on the part of the claimant. He also submitted that the Tribunal has awarded excess amount towards Permanent disability and the other heads also and hence, he prayed to set aside the Award passed by the Tribunal.

9. Now the points for determination is
(i) Whether the Award passed by the Tribunal
is an excessive?

10. Point No.1:

It is the contention of the claimant that only due to the rash and negligent driving of the driver of the respondent, the accident was happened and on the date of accident, he was working as a field worker and during the accident he sustained fracture of both bone left leg and he was treated as inpatient in the Chengalpattu Medical College Hospital from 26.09.2008 to 03.09.2008 and thereafter, he has taken continuous treatment up to the year 2011. The further contention of the claimant is that due to the accident, he is unable to continue his work as employee and hence he is entitled for compensation.

11. The Tribunal, after elaborating discussion, has come to the conclusion that the negligent driving of the driver of the bus was the cause of accident and has fixed the liability on the respondent to pay compensation to the claimant. Admittedly, on the date of accident, the petitioner was working as a District Filaria Officer in National Filaria Control Programme, Chengalpattu and was earning a sum of Rs.7,604/- as monthly salary, as per Ex.P9 pay slip. Further, considering the medical records and also taking into account the fact that the petitioner had taken leave on loss of pay, the Tribunal has awarded Rs.76,000/- towards "Loss of Income" for ten months. The Doctor, who has given disability certificate Ex.P11 was examined as PW2 and he assessed the disability suffered by the claimant as 70%. However, by considering the evidence of the doctor PW2 and the other documents, the Tribunal has assessed 60% as disability and awarded a sum of Rs.2000/- per percentage and granted a sum of Rs.1,20,000/- towards "Permanent Disability". In addition to that, after analysing the materials and the oral and documentary evidence on record, the Tribunal has also awarded compensation towards "Pain and sufferings, Extra Nourishment, Transportation charges, Damages to cloth and Medical Expenses" as extracted above. Therefore, this court is of the view that the compensation awarded by the Tribunal under various heads is just and reasonable and this court do not find any fault on it and the appeal fails. The point is answered accordingly.

12. In the result,

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

(ii) The appellant/Tamil Nadu State Transport Corporation Limited 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 already deposited, within a period of 12months from the date of receipt of a copy of this order.

(iii) On such deposit being made by the appellant/ Tamil Nadu State Transport Corporation Limited, the claimant is at liberty to withdraw the same, after following due process of law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Chengalpattu.

Copy to
The Section Officer,
VR Section,
High Court, Madras.

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