



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1314 of 2021

The Managing Director,
Tamil Nadu State Transport
Corporation (Div.II) Limited,
Bharathipuram, Dharmapuri.

.. Appellant/Respondent

Vs.

V.Karthick

.. Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.04.2013 made in M.C.O.P.No.220 of 2013, on the file of the Special Sub Court, (Motor Accidents Claims Tribunal), Krishnagiri.

For Appellant : Mr.D.Venkatachalam

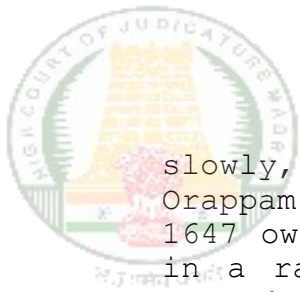
J U D G M E N T

(The matter is heard through "Video Conferencing/Hybrid mode")

This Civil Miscellaneous Appeal has been filed by the appellant-Transport Corporation challenging the quantum of compensation granted by the Tribunal in the award dated 30.04.2013 made in M.C.O.P.No.220 of 2013, on the file of the Special Sub Court, (Motor Accidents Claims Tribunal), Krishnagiri.

2.The appellant is the respondent in M.C.O.P.No.220 of 2013, on the file of the Special Sub Court, (Motor Accidents Claims Tribunal), Krishnagiri. The respondent/claimant filed the said claim petition, claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 20.04.2008.

3.According to the respondent, on the date of accident, when he was riding a Motorcycle bearing Registration No.TN-29-P-5820 from Orappam towards Bargur, on the left side of the road



slowly, observing road rules, near Marudepalli Koot Road at Orappam, the driver of the Bus bearing Registration No.TN-29-N-1647 owned by the appellant-Transport Corporation drove the same in a rash and negligent manner from Hosur side and proceeding towards Vaniyambadi side, dashed on the Motorcycle driven by the respondent and caused the accident. In the accident, the respondent sustained grievous injuries. The accident occurred only due to rash and negligent driving by driver of the Bus. Hence, the respondent filed the claim petition claiming compensation against the appellant as owner of the Bus involved in the accident.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by driver of the Bus owned by the appellant-Transport Corporation and directed the appellant to pay a sum of Rs.2,68,400/- as compensation to the respondent.

5.Questioning the quantum of compensation granted by the Tribunal in the award dated 30.04.2013 made in M.C.O.P.No.220 of 2013, the appellant - Transport Corporation has come out with the present appeal.

6.The learned counsel appearing for the appellant/Transport Corporation contended that in the absence of any evidence by the respondent to prove his age, avocation and income, the Tribunal ought not to have fixed the monthly income of the respondent as Rs.3,000/-, which is excessive. The Tribunal ought not to have taken the disability suffered by the appellant as 30% without proper proof and adopted multiplier method to calculate the loss of earning capacity when the respondent failed to prove that due to the injuries sustained in the accident, he could not continue his work as he was doing earlier and lost his earning capacity. The amounts awarded by the Tribunal towards pain and sufferings, attendant charges, transportation, extra nourishment and future medical expenses are excessive and prayed for setting aside the award of the Tribunal.

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

8.It is the case of the respondent that in the accident, he sustained grievous injuries and has taken treatment at Government Hospital, Krishnagiri. P.W.2-Doctor examined the respondent and certified that the respondent suffered 40% disability. P.W.2 Doctor deposed that due to the injuries sustained in the accident, the movement of muscle and knee are reduced and the respondent is not able to stand for a long time, not able to raise his left hand and shoulder more than 80 degree



and not able to sit or squat as before the accident. P.W.2 Doctor was cross examined and no favourable answer was elucidated in favour of the appellant. In the absence of any contra evidence by the appellant - Transport Corporation to disprove the evidence of P.W.2 Doctor and disability certificate marked as Ex.P6, the Tribunal considering the evidence of P.W.2 Doctor and Exs.P2 and P6, reduced the disability of the respondent to 30% and adopted multiplier method, on the ground that due to the fracture sustained in his left shoulder and left foot, he is unable to continue his Carpenter work as he was doing earlier and hence, his earning capacity is reduced. The reason given by the Tribunal for adopting multiplier method is in order. The respondent contended that at the time of accident, he was earning a sum of Rs.3,300/- per month as Carpenter. He did not file any material evidence to prove the same. In the absence of any evidence, the Tribunal considering the year of accident, age of the respondent and nature of work done, fixed a sum of Rs.3,000/- per month as notional income, which is not excessive. Further, the Tribunal considering the age of the respondent as 18 years, rightly applied multiplier '18' and awarded compensation towards loss of earning capacity for 30% disability. Considering the nature of injuries and disability suffered by the respondent, this Court is of the considered view that the amounts awarded by the Tribunal under different heads are not excessive, warranting interference by this Court.

9. In the result, this Civil Miscellaneous Appeal is dismissed and the amount awarded by the Tribunal at Rs.2,68,400/- together with interest at the rate of 6% per annum from the date of petition till the date of deposit is confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount 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 2013. 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

gsa



To

1. The Special Subordinate Judge,
(Motor Accidents Claims Tribunal),
Krishnagiri.

2. The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.D.Venkatachalam, Advocate Sr No.21103

C.M.A.No.1314 of 2021

RK (CO)
PR (28/10/2021)