

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 11.02.2021****CORAM:****THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**C.M.A(MD)No.1081 of 2018andCMP(MD)No.11094 of 2018

The Managing Director,
Tamilnadu State Transport Corporation,
(Kumbakonam Division)
Kumbakonam,
Karaikudi Region.

: Appellant/Respondent

Vs.

Balasubramanian

: Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the award, dated 12.04.2018 made in MCOP No.4 of 2015 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate), Pudukkottai.

For Appellant : Mr.P.Prabhakaran
For Respondent : Mr.J.Anandkumar

JUDGMENT

Challenge made in this appeal is to the award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Pudukkottai, in MCOP No.4 of 2015, dated 12.04.2018.

2.The short facts of the case is that on 14.02.2014 at 12.50 pm, when the claimant was attempted to get down from the bus TN-63-N-1597, the driver of the bus suddenly drove it and due to which, the claimant fell down and the back wheel of the bus climbed over his right hand leg and thereby caused injuries. The injured claimant filed a claim petition seeking compensation of Rs.1,00,000/- on the ground that the driver of the bus was responsible for the accident.

3.The claimant has stated that at the time of the accident, his age was 54 and he was working as a Manager in a private Company at Andaman and was earning Rs.28,000/- per month. A criminal case in Crime No.352 of 2014 was registered against the driver of the Bus by Ganesh Nagar Police.



4.The claim was opposed by the appellant Transport Corporation disputing the manner of accident and their liability to pay compensation.

5.The Tribunal, upon consideration of oral and documentary evidence, came to the conclusion that the driver of the Bus was responsible for the accident and awarded compensation of Rs.63,000/- together with interest @ 7.5 % p.a. Aggrieved by the award of the tribunal, the appellant Transport Corporation is before this court.

6.Heard both sides and perused the materials available on record.

7.Even though several grounds were raised in the grounds of appeal, it is mainly contended by the learned counsel for the appellant that the tribunal had wrongly fixed the entire responsibility on the part of the driver of the bus and the quantum awarded by the tribunal is excessive, so the quantum is to be reduced. On the other hand, the learned counsel for the respondent/claimant submitted that the award is reasonable, which does not warrant any interference of this court.

8.In this case, PW1 is the injured as well as the eye witness to the accident. A criminal case was registered against the driver of the Bus. Ex.P1 FIR stands registered based on the complaint given by PW1. Ex.P3 is the Wound Certificate. PW1 has given evidence stating that he sustained fracture injury on his right leg and as such, he was not able to do his regular work and he produced Ex.P4 Wound Certificate for the injuries sustained by him in the alleged accident. Perusal of Ex.P4, it is seen that the claimant had sustained grievous injuries. Based on the evidence, the Tribunal has awarded Rs.20,000/- for the injuries sustained in the accident; Rs.26,000/- under the head of loss of income during treatment period; Rs.5,000/- towards transportation; Rs.2,000/- towards nutrition; Rs.10,000/- towards pain and sufferings, totally **Rs.63,000/-** together with interest @ 7.5.% p.a. Even though, the tribunal has awarded Rs.26,000/- under the head of loss of income during treatment period, this court finds that the same has to be reduced to some extent. Accordingly, the award of Rs.26,000/- towards loss of income during the treatment period is reduced to Rs.20,000/-. Insofar as the other heads, this court is of the considered view of this court that they are reasonable and therefore, they are confirmed. Accordingly, the claimant is entitled to Rs.57,000/- together with interest at the rate of 7.5% p.a.

9.In the result, the Civil Miscellaneous Appeal is partly allowed. The award of the tribunal is reduced to Rs.57,000/- from Rs.63,000/-. The interest awarded by the tribunal is maintained. The appellant Transport Corporation is directed to deposit the modified amount with accrued interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made by the Appellant Transport Corporation, the claimant is



entitled to withdraw the entire amount without filing any formal petition before the tribunal. Excess amount if any shall be refunded to the appellant Transport Corporation. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1.The Motor Accidents Claims Tribunal/
Chief Judicial Magistrate, Pudukkottai.

2.The Record Keeper, (2C)
V.R Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-4698[F] dated 12/02/2021)

C.M.A(MD)No.1081 of 2018
11.02.2021

KB(08.06.2021) 3P 5C