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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 16.02.2022

C O R A M

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

Civil Miscellaneous Appeal No. 1312 of 2014
and
M.P.No.1 of 2014

Tamilnadu State Corporation
(Madurai Division II) Ltd,
represented by its
Managing Director,
Tirunelveli.
[Cause title accepted vide order
dated 08.10.2004 and made in
C.M.P.No.15958 of 2004]

...Appellant/1st Respondent

Vs

1.Chinnasamy
S/o, Alumary

...1st Respondent/Petitioner

2.A.Chinnasamy
S/o, Arunachala Gounder

...2nd Respondent/1st Respondent

3.United India Insurance
Company Limited,
Dharmapuri.

...3rd Respondent/3rd Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, against the judgment and decree of the Motor Accidents Claims Tribunal (Sub Court), Dharmapuri, dated 7th day of March 2003 in M.C.O.P.No.220 of 1996.

For Appellant .. Mr.D.Venkatachalam

For R1 .. M/s.V.Kumaravelan

For R2 .. No appearance

For R3 .. M/s.M.J.Vijayarahavan

J U D G M E N T

Challenging the award dated 07.03.2003 made in M.C.O.P.No.220 of 1996 on the file of the Motor Accidents Claims Tribunal, (Subordinate Court) Dharmapuri, the appellant/Transport Corporation has preferred this Civil Miscellaneous Appeal.



2. The first respondent herein is the injured claimant. According to the first respondent/ claimant, on 20.12.1995, when he was travelling with others in a tourist van bearing Registration No.TN.28/3234, owned by the second respondent and insured with the third respondent, the driver of the bus bearing Reg.No.TN72/0182 belonging to the Appellant/ Transport Corporation came from the opposite direction of the said tourist van and in a rash and negligent manner dashed against the tourist van, due to which, he sustained grievous injuries in his legs. Since the accident had occurred due to the rash and negligent driving of the driver of the bus belonging to the appellant/Transport Corporation, the injured claimant filed a claim petition claiming a sum of Rs.4,00,000/- as compensation.

3. Before the Tribunal, the appellant/Transport Corporation denied the manner in which the accident had occurred and the allegations made in the claim petition. According to the Appellant/Transport Corporation, the tourist van driver drove the van in a rash and negligent manner and dashed against the bus, causing the accident and therefore, he prayed for dismissal of the Claim Petition.

4. On the side of the claimant, P.W.1 and P.W.2 were examined and Exs.P1 to P5 were marked. On the side of the respondents, R.W.1 was examined and no document was marked.

5. The Tribunal, on considering the pleadings, oral and documentary evidence, held that the accident had occurred only due to the rash and negligent driving of the driver of both the vehicles and awarded a sum of Rs.2,99,150/- as compensation to the claimant under the following heads:

S.No.	Head under which the compensation is awarded	Amounts awarded by the Tribunal
1.	Permanent Disability	Rs.90,000/-
2.	Medical Expenses	Rs.23,150/-
3.	Transportation Charges	Rs. 7,500/-
4.	Extra Nourishment	Rs.10,000/-
5.	Damages to cloths	Rs. 500/-
6.	Loss of income	Rs.18,000/-
7 .	Pain and Suffering	Rs.75,000/-
8.	Loss of Future Amenities	Rs.75,000/-
	Total	Rs.2,99,150/-

6. Learned counsel for the appellant/Transport Corporation contended that the award of the Tribunal is liable to interfere both on the grounds of negligence and quantum. According to the learned counsel, the accident had occurred due to the rash and negligent driving of the driver of the



Tourist van and hence the respondents 2 and 3 alone are liable to compensate the claimant. Further he contended that the claimant did not suffer permanent disability as pleaded by him and hence, the compensation awarded is excessive.

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7. Heard the learned counsel for the parties and perused the material documents available on record.

8. On a perusal of the pleadings, it is seen that there was head-on-collision of both the vehicles, ie, the Bus and the Tourist Van. After analyzing the evidence on record and on the basis of the principles laid down by the Apex Court in a catena of decisions, the Tribunal has rightly fixed the liability of the accident equally on the driver of both the vehicles, and the same does not warrant interference by this Court.

9. As regards the quantum awarded by the Tribunal, it is seen that the claimant sustained fracture in both legs and underwent treatment in Hospital for two months and also he underwent surgery in both legs. Bearing in mind all these aspects, the Tribunal has awarded compensation of a sum of Rs.2,99,150/- under various heads, which in view of this Court, is certainly not on the higher side.

10. In view of the aforesaid discussion, this Court does not find any reason to interfere with the order passed by the Tribunal. Accordingly the Award passed by the Tribunal is confirmed.

11. The appellant/Transport Corporation is directed to deposit the entire award amount to the credit of M.C.O.P.No.220 of 1996 on the file of the Motor Accident Claims Tribunal (Subordinate Court), Dharmapuri, along with interest at the rate of 7.5% per annum, from the date of the claim petition till the date of deposit, and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of eight weeks from the date of receipt of copy of this judgment. On such deposit being made, the first respondent/claimant is permitted to withdraw the award amount, along with accrued interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn.

12. In fine, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-VII)

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To

The Motor Accidents Claims Tribunal (Subordinate Judge),
Dharmapuri

Copy to:

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

+1cc to Mr.D.Venkatachalam, Advocate SR. No. 9946

+1cc to Mr.V.Kumaravelan, Advocate SR. No. 9968

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and
M.P.No.1 of 2014

NR (CO)
PR (02/06/2022)