



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CMA(MD)No.1115 of 2017 &

CMP(MD)No.11360 of 2017

WEB COPY

The General Manager,
Tamil Nadu State Transport Corporation,
Karaikudi
... Appellant/Respondent
vs.

Mujipur Rakhman
... Respondent/Petitioner

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Award and Decree dated 21.09.2016 in MCOP.No.44/2015 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Ramanathapuram.

For Appellant :Mr.P.Prabhakaran

For Respondent :Mr.S.Ramesh

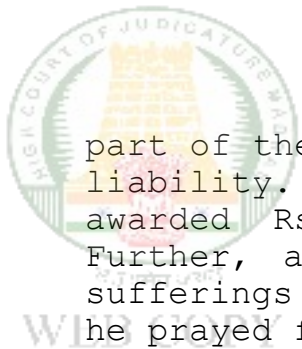
J U D G M E N T

The appellant filed this appeal against the Award and Decree dated 21.09.2016 in MCOP.No.44/2015 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Ramanathapuram.

2. On 09.05.2015, the claimant was travelling as a passenger in the respondent bus bearing Registration No.TN 63 N 1236 from Pudukkottai to Ramanathapuram. The bus was driven by its driver in rash and negligent manner. At about 10.00 pm, the bus driver stopped the bus at Kenikkarai bus stop, Ramanathapuram. When the claimant was getting down from the bus, without noticing the same, the bus driver suddenly started the bus, as a result of which, the claimant was thrown out from the bus and the left back wheel of the bus ran over both the legs of the claimant. The claimant sustained multiple grievous injuries all over his body.

3. The claimant filed MCOP.No.44/2015 claiming compensation for the injuries sustained by him. The Tribunal after analysing the oral and documentary evidences on record, awarded a sum of Rs.6,21,000/- together with interest at the rate of 7.5% per annum, as compensation and fixed the liability on the appellant herein. Aggrieved over the same, the appellant has preferred this appeal.

4. The learned counsel for the appellant would submit that the claimant jumped from the moving bus and he was solely responsible for the accident. Hence, entire negligence should be fixed on the



part of the claimant and the appellant should be exonerated from the liability. The Tribunal fixed Rs.3,000/- for 1% of disability and awarded Rs.1,41,000/- for 47% disability, which is too high. Further, a sum of Rs.50,000/- each was awarded towards pain and sufferings and mental agony, which is double compensation. Hence, he prayed for reducing the compensation awarded by the Tribunal.

5. The learned counsel for the respondent submitted that the driver of the appellant bus was rash and negligent in driving the vehicle and he started the bus suddenly while the respondent / claimant was getting down from the bus. The Tribunal after considering all the materials on record, fixed the liability on the appellant Transport Corporation. The respondent / claimant sustained multiple grievous injuries and hence the quantum of compensation awarded by the Tribunal is reasonable and the same need not be reduced.

6. A perusal of the records would show that the First Information Report was registered against the driver of the appellant bus and Charge Sheet was also laid against him. In such circumstances, the driver of the bus cannot escape from the liability. The Tribunal also considered this fact and directed the appellant Transport Corporation to pay the compensation. This Court is not inclined to interfere with the liability aspect. As regards quantum of compensation, from the records, it is seen that the respondent / claimant sustained multiple injuries all over the body. The Doctor who assessed the disability fixed partial and permanent disability at 49%. Ex.P7, Discharge Summary shows that the respondent / claimant took treatment at Madurai Devadoss Hospital as inpatient from 10.05.2015 to 29.05.2015. Ex.P8, Discharge Summary shows that he took treatment as inpatient in the Hospital from 09.06.2015 to 24.06.2015. The Tribunal after analysing the records fixed the disability at 47%. The accident is of the year 2015. Hence, the Tribunal was right in fixing Rs.3,000/- for 1% of disability and awarding Rs.1,41,000/- towards disability. However, since the Tribunal awarded Rs.50,000/- towards pain and sufferings, another Rs.50,000/- awarded towards mental agony is unnecessary. Hence, a sum of Rs.50,000/- awarded towards mental agony is hereby set aside. All the other heads awarded by the Tribunal are just and proper and the same are hereby confirmed.

7. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

(ii) The quantum of compensation awarded by the Tribunal is reduced from Rs.6,21,000/- to Rs.5,71,000/- together with interest at the rate of 7.5% per annum.

(iii) The appellant/Insurance Company is directed to deposit the reduced compensation ie., Rs.5,71,000/- (less the amount already deposited, if any) together with interest at the rate of 7.5% per



annum from the date of claim petition till the date of deposit to the credit of MCOP.No.44/2015 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Ramanathapuram within a period of six weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the respondent / claimant is at liberty to withdraw the same after following due process of law.

Sd/-

Assistant Registrar (CS III)

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/ /2022

Sub Assistant Registrar(CS)

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To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Ramanathapuram.

Copy to:

The Section Officer,V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V.RAGHAVACHARI, Advocate (SR-1851[F] dated 20/01/2022)

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-1770[F] dated 19/01/2022)

CMA(MD)No.1115 of 2017

19.01.2022

MGJ(04.03.2022) 3P 6C