



C.M.A.No.919 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : .09.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.No.919 of 2010

The Managing Director,
Karnataka State Road Transport Corporation,
K.H.Road, Shanthi Nagar,
Bangalore – 560 027. Appellant

vs.

1. Regi @ Anish
(Rep by his Guardian/Next friend
his wife Mrs.Bindu)

2.B.Lakshmana Gowda ... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 29.09.2006 made in M.C.O.P.No.56 of 2005 on the file of the Motor Accident Claims Tribunal / District Judge, Nilgiris.

For Appellant : Mr.V.Ramesh
For Respondent : Mr.S.L.Sudarsanam



C.M.A.No.919 of 2010

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JUDGMENT

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 29.09.2006 made in MCOP.No.56 of 2005 on the file of the Motor Accident Claims Tribunal/ District Court, Udagamandalam questioning the liability saddled on the Respondent - Karnataka State Road Transport Corporation.

2. The claim petition was filed under Section 166 of Motor Vehicles Act, claiming compensation of Rs.13 lakhs for the injuries sustained by the claimant in a road traffic accident that occurred on 25.02.2004.

3. The Tribunal after hearing both sides and upon consideration of oral and documentary evidence has granted compensation of Rs.8,25,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

4. The learned counsel appearing for the Appellant, Mr.V.Ramesh, would vehemently contend that, to speak about the accident, the driver of Transport Corporation Bus was examined as RW-1. The Tribunal has not



C.M.A.No.919 of 2010

taken into consideration the evidence of RW-1, and held that due to the rash and negligent driving of the driver of the respondent bus, the accident occurred is totally incorrect. He further argued that the amount awarded for a loss of future income is excessive and sought for reduction.

5. Per contra, the learned counsel appearing for the respondent/claimant would strenuously contend that at the time of the accident, the claimant sustained fracture of the left knee and head injury. Disability of the respondent was assessed at 75%. He would further argue that the injured was a dealer in hollow block and he was an agriculturist. Based on the same, the income of the claimant was fixed at Rs.5,000/- per annum, which is reasonable. It is further argued that it is incorrect to state that the evidence of RW-1 was not considered by the Tribunal and the Tribunal has discussed the evidence of PW.2 as well as RW-1 and has come to the conclusion that due to the rash and negligent driving of the driver of the KSRTC bus, the accident occurred. As the order of the Tribunal appears to be a reasonable one, it does not need interference.



C.M.A.No.919 of 2010

6. Heard the arguments of the learned counsels for both sides and

perused the materials on record.

7. At trial, the claimant's wife Tmt.Bindu, Tr.Thomas @ Thommi, Dr.Jacob George were examined as PW.1 to PW.3. Ex.A.1 to Ex.A.31 were marked. The Accident Register Copy and Medical Report are Exs.A3 and A4. Ex.A.26 and Ex.A.27 are Discharge Summaries. Driver of the Respondent bus was examined as RW-1.

8. According to the petitioner, when he was proceeding near Marthoma Nagar at Gudalur-Mysore Road on his motor cycle bearing Registration No.KL-5-1977, the respondent Corporation bus belonging to the second respondent came in a rash and negligent manner from the opposite direction and hit on the motor cycle of the claimant. Due to the impact, he sustained serious injuries. The ocular witness Thomas @ Thommi /PW.2 has spoken about the accident. At the behest of PW-2 only, Ex.A1 / FIR was registered.



C.M.A.No.919 of 2010

WEB COPY 9. On the second respondent side, the bus driver namely, the first respondent Lakshmana Gowda was examined as RW-1. It is his evidence that the motor cycle came at a high speed and hit the bus and he drove the bus at slow speed. PW.2 and RW-1 are undoubtedly ocular witnesses. Though RW-1 has stated that it was a mistake made by the motor cycle coming at a high speed, had it been true, he could have lodged a complaint against the claimant. He did not lodge any complaint. Therefore, from the evidence of PW-2, RW-1 coupled with the details of the FIR (Ex.A.1), it is vividly made clear that the accident occurred only due to the rash and negligent driving of the driver of the bus driver.

10. According to the claimant, he was initially admitted to the Government Hospital, Gudalur and thereafter shifted to Alshifa Hospital, Perunthalmanna on 25.02.2004. It is seen from Ex.A4, the medical report of Alshifa Hospital, the claimant sustained head injury. The claimant was further shifted to Christian Medical College Hospital, Vellore as per Ex.A.26/Discharge Summary. He was admitted to the said hospital from 25.04.2004 to 21.07.2004 and after five months he was again re-admitted



C.M.A.No.919 of 2010

to the same hospital and was an inpatient from 02.12.2004 till 22.12.2004.

It is the evidence of Dr.Jacob George (PW.3), attached to Christian Medical College, Vellore that the petitioner sustained brain injury, fractures of the zygoma, right fore arm and right knee.

11. It is the evidence of PW-3 Dr.Jacob George that the petitioner is bed ridden and depends on others for day-to-day activities. It is pertinent to note that it is the evidence of the Doctor that the claimant cannot lead a normal life. His further evidence is that the claimant has become senseless and has no control even for natural calls and has become unfit for sexual life.

12. The Tribunal has followed the law laid down by the Hon'ble Supreme Court in **Ashwani Kumar Mishra Vs P.Muniam Babu and others reported in 1999 ACJ 1105** and granted an amount of Rs.3 lakhs for loss of future income due to disability. Ex.A.8 to Ex.A.25 are the medical expense details. Relying upon the said bill, the amount of Rs.4,75,000/- was granted.



WEB COPY



C.M.A.No.919 of 2010



C.M.A.No.919 of 2010

13. From the evidence of PW.1 and PW.3, Dr.Jacob George it is discernible that due to injuries sustained by the claimant he is senseless and he has no control, and not in a position to attend even the natural calls. The Tribunal has granted Rs.25,000/- for transport charges, for Extra nourishment Rs.5,000/-, for Pain and Suffering Rs.25,000/- and for mental agony and for shock Rs.13,000/-, totally an amount of Rs.8,25,000/- was granted. No Appeal is preferred by the claimant side.

14. Taking into account of the injuries sustained by the claimant and the effect and impact on him, the amount awarded by the Tribunal appears to be reasonable under various heads and hence it need not be interfered with.

15. With the aforesaid observations, this Civil Miscellaneous Appeal is dismissed and the Award passed by the Tribunal in M.C.O.P.No.56 of 2005 dated 29.09.2006 is hereby confirmed. No costs.

.09.2023

Index : Yes/No
Speaking / Non-speaking order
drl



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C.M.A.No.919 of 2010

To:

1. The Motor Accident Claims Tribunal,
The District Judge Nilgiris @ Udhagamandalam
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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C.M.A.No.919 of 2010

R.KALAIMATHI, J.,

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C.M.A.No.919 of 2010

.09.2023