



C.M.A.No.1601 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.07.2023

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGN

C.M.A.No.1601 of 2018 and
C.M.P.No.12761 of 2018

The Managing Director,
K.S.R.T.C, Central Office,
Karnataka State,
(Mangaluru Division)

...Appellant

Vs.

R.Parvathy

...Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173(1) of Motor Vehicle Act, 1988, challenging the fair and decreetal order dated 04.10.2017 made in M.C.O.P.No.1596 of 2015 passed by the learned Motor Accident Claims Tribunal, Additional District Court, Namakkal.

For Appellant : Mr.T.Thiyagarajan

For Respondent : Mr.Ma.Pa.Thangavel

JUDGMENT

This Civil Miscellaneous Appeal is filed challenging the award dated 04.10.2017 made in M.C.O.P.No.1596 of 2015 passed by the learned Motor Accident Claims Tribunal, Additional District Court, Namakkal.



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2 Appellant is Transport Corporation and respondent is a claimant.

The respondent filed claim petition in M.C.O.P.No.1596 of 2015 before the Motor Accident Claims Tribunal, Namakkal, claiming compensation of Rs.10,00,000/- for the injuries sustained by her in the accident that occurred on 26.06.2015 and yet another claimant, who also sustained injuries in the same accident has filed M.C.O.P.No.1319 of 2015.

3 The appellant/Transport Corporation had filed detailed counter denying all the allegations apart from disputing the liability.

4 Before the claims Tribunal, on the side of the respondent/claimant, P.Ws.1 to 3 were examined and Exs.P1 to P24 were marked. On the side of the appellant/Transport Corporation, no oral and documentary evidence was let in.

5 The Tribunal, on an assessment of the entire evidence on record, fixed the liability on the appellant/Transport Corporation and by a common order dated 04.10.2017 awarded a sum of Rs.6,34,800/- to this respondent/claimant and awarded a sum of Rs.1,27,900/- to the other claimant as compensation along with 7.5% interest. Aggrieved over, the compensation ordered by the Tribunal to this respondent, the Transport Corporation has come



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forward with the present civil miscellaneous appeal.

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6 Learned counsel appearing for the appellants/Transport Corporation would submit that the accident had occurred due to the rash and negligent driving of the rider of the two wheeler and hence the driver of the appellant/Transport Corporation is not responsible for the accident. The Tribunal without even testing the veracity of the documents marked by the claimants, fixed the liability on the appellant, which is erroneous. Further, P.W.3 is the Doctor, who issued disability certificate to the respondent/claimant assessing the disability at 45% is without any basis and the injuries sustained by the respondent/claimant has been recovered and hence when there is no total functional disability, the Tribunal is not justified in adopting multiplier method, which warrants interference.

6.1 The learned counsel for the appellant/Transport Corporation further submitted that the Tribunal without any proof for income of the respondent/claimant, fixed notional income of Rs.6,500/-, which is unsustainable. The learned Tribunal erred in awarding a sum of Rs.6,34,800/- to the respondent/claimant as compensation without any basis and material evidence on record and is also excessive and hence the same requires



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reconsideration.

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7 Learned counsel appearing for the respondent/claimant would submit that on 26.06.2015 respondent was traveling in a Bus bearing Reg.No.KA 19 F 2955 from Dharmasasta to Bangalore and when the Bus reaches Kuthrollikette, Pilathepet Village, Dhatchinakanda District, the Driver of the Bus bearing Reg.No.KA 19 F 3253 belongs to the appellant/Transport Corporation, driven the same in a rash and negligent manner and dashed against the Bus, in which the respondent/claimant was traveling and caused the accident, due to which the respondent/claimant and other passengers sustained injuries. The respondent/claimant incurred medical expenses for a sum of Rs.2.00 lakhs. At the time of accident, the respondent/claimant was earning a sum of Rs.10,000/- as Agricultural Cooli. The Doctor assessed the functional disability at 50% and therefore she was not in a position to do any work and earn money. The Tribunal appreciated the oral and documentary evidence and applied multiplier method. Hence there is no merit in the appeal and the same is liable to be dismissed.

8 Heard the learned counsel appearing on either side and perused the



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materials available on record.

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9 The respondent/claimant was examined as P.W.2 and yet another injured, who is the claimant in other M.C.O.P.No.1319 of 2015, which is not before this Court, was examined as P.W.1. Both the injured witnesses have clearly stated that while they were traveling the in Bus bearing Reg.No.KA 19 F 2955 and when the Bus reaches Kuthrollikette, Pilathepet Village, Dhatchinakanda District, the Driver of the Bus bearing Reg.No.KA 19 F 3253 driven the same in a rash and negligent manner and dashed against the Bus and caused the accident.

10 Even though, the learned counsel for the appellant/Transport Corporation contended that the accident had occurred only due to the rash and negligent driving of the rider of the two wheeler, which was presiding the Bus, but, to prove the same the appellant neither examined Driver of the offending vehicle nor examined any other passengers, who traveled in the Bus at the time of accident. Therefore when the eye witnesses have clearly spoken about the manner of the accident and in the absence of any contra evidence, this Court finds that the finding of the Tribunal in fixing the liability on the appellant/Transport Company is reasonable.



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As far as quantum of compensation compensation is concerned, even though, the respondent/claimant has not produced any proof for income, in the year of 2015, when the accident had occurred, the income of the Agricultural Cooli would be not less than Rs.6,500/-. Even assuming that the respondent/wife is not employed, as a house wife, the household works cannot be equated with anything. Hence there is no wrong in fixing the notional income at Rs.6,500/- by the Tribunal. Even though the learned counsel contended that the Tribunal wrongly adopted multiplier method, but, records shows that the claimant sustained grievous injuries and the Tribunal considering the Exs.P11 to 17, 22, 23 and the Disability Certificate Ex.P24 and the evidence of the Doctor P.W.3, adopted the multiplier method, in which this Court does not find any perversity.

12 Therefore, at any angle, the award of the Tribunal is just, fair and reasonable and this Court does not find any perversity in appreciation of evidence by the Tribunal and the same needs no interference of this Court. There is no merit in the appeal and hence the same is dismissed. The appellant/Transport Corporation is directed to deposit the award amount before the Tribunal without any further delay. On such deposit, the Tribunal is directed



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to credit the award amount to the account of the respondent/claimant without any formal application as per the decision of the Division Bench of this Court reported in 2016 (2) LW 561 (*The Divisional Manager, The Oriental Insurance Company Limited, Kannur, Vs. Rajesh and Others*). Consequently connected miscellaneous petition is closed. However, there shall be no order as to costs.

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Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

To

The Motor Accident Claims Tribunal,
Additional District Court, Namakkal.



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P.VELMURUGAN. J.,

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