



WEB COPY



C.M.A.No.1912 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.1912 of 2020
and C.M.P.No.14148 of 2020

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Trichy Region,
Trichy District.

... Appellant/Petitioner

Vs.

P.Deepa @ Divya

... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgement and Decree dated 01.11.2019 made in M.C.O.P.No.71 of 2016 on the file of the Motor Accident Claims Tribunal/Sub-Court, Tittagudi.

For Appellant : Mr.D.Raghu

For Respondent : Mr.R.Ravindar - No appearance

JUDGEMENT

The Appellant/Transport Corporation has challenged the award passed by the Motor Accident Claims Tribunal/Sub-Court, Tittagudi, in M.C.O.P.No.71 of 2016, dated 01.11.2019 on the grounds of negligence and



C.M.A.No.1912 of 2020

WEB COPY

2. The facts, which is culminated in the filing of the claim petition are as follows :-

(i) The respondent herein had filed the claim petition in M.C.O.P.No.71 of 2016 claiming compensation for the injuries sustained by her in a road accident on 22.05.2016.

(ii) It is the case of the respondent/claimant that she was a Tailor and was aged about 21 years. She was earning a monthly income of Rs.15,000/-. On 22.05.2016 at about 9.30 a.m., for the purpose of distributing invitation, the claimant travelled as a pillion rider in the two wheeler bearing Reg.No.TN 46 S 4628, which was driven by her fiance, at that time, a bus bearing Reg.No.TN 45 N 3571 belong to the Transport Corporation came behind in a rash and negligent manner and dashed against the two wheeler in which the respondent was travelling, as a result of which, the rider of the two wheeler died at the spot and the respondent sustained grievous injuries. Thereafter, she filed a claim petition before the Tribunal claiming a total compensation of a sum of Rs.5,00,000/- for the injuries sustained by her in the said accident in M.C.O.P.No.71 of 2016.

3. Before the Tribunal, the claimant examined herself as P.W.1 and



C.M.A.No.1912 of 2020

marked 14 documents viz., Ex.P.1 to Ex.P.14. On the side of the respondent/Transport Corporation, they have examined one Kumar as R.W.1 and marked 2 documents viz., Ex.R.1 and Ex.R.2. After adjudication, the Tribunal by its award dated 01.11.2019 awarded a sum of Rs.4,31,400/- as compensation by fastening negligence exclusively on the driver of the appellant/Transport Corporation's bus. Challenging the same, the Transport Corporation is before this Court.

4. The learned counsel appearing for the appellant/Transport Corporation submitted that, due to the rash and negligent driving of the respondent/claimant, the accident had took place. However, the Tribunal had fastened the entire negligence as against the driver of the appellant/Transport Corporation's bus, which is not sustainable. He further submitted that the respondent had sustained only fracture injuries, for which, the Tribunal awarded compensation by adopting multiplier, which is highly excessive and the same requires to be interfered. Accordingly, he prays for allowing the appeal.

5. Heard the learned counsel appearing for the appellant/Transport Corporation and perused the materials available on record.



C.M.A.No.1912 of 2020

WEB COPY

6. A perusal of the entire papers including the award passed by the Tribunal below would show that the respondent/claimant has examined herself as P.W.1, in which, he had spoken about the negligence on the part of the bus of the appellant/Transport Corporation, which has resulted in the accident. That apart, the FIR has also been lodged only against the driver of the bus. In order to prove the negligence on the driver, the respondent/claimant has marked FIR as Ex.P.1 and Motor Vehicle Inspection Report as Ex.P.6. Therefore, the finding of the Tribunal with reference to negligence does not require any reconsideration. Likewise, the Tribunal has taken 33% as a disability and by adopting multiplier method, granted a compensation of Rs.3,56,400/- under the head of compensation for permanent disability and loss of income, considering the fact that the claimant was a tailor and she was not able to perform her avocation which she was carrying on before the accident, which is just and reasonable. The compensation awarded by the Tribunal under the other heads are appears to be in order. Therefore, this Court is not inclined to interfere with the same.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed and the judgment and decree dated 01.11.2019 made in M.C.O.P.No.71 of 2016 on the



C.M.A.No.1912 of 2020

file of the Motor Accident Claims Tribunal/Sub Court, Tittagudi is confirmed.

The appellant is directed to deposit the award amount as awarded by the Tribunal to the credit of M.C.O.P.No.71 of 2016 within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to disburse the amount directly to the bank account of the respondent/claimant through RTGS within a period of two (2) weeks thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

13.12.2023

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

sp

To

- 1.The Motor Accident Claims Tribunal/Sub Court, Tittagudi.
- 2.The Section Officer, V.R.Section, High Court, Madras.



WEB COPY



C.M.A.No.1912 of 2020

M.DHANDAPANI, J.,

sp

C.M.A.No.1912 of 2020

13.12.2023