



C.M.A.No.1940 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.1940 of 2017
and C.M.P.No.10484 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Taluk,
Villupuram District.

... Appellant/Respondent

Vs.

R.Elangovan

... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgement and Decree passed by the Motor Accident Claims Tribunal, (Additional Sub Court), Viruthachalam in M.C.O.P.No.86 of 2014 dated 24.04.2015.

For Appellant : Mr.S.S.Santhosakumar

For Respondent : Not ready in notice

JUDGMENT

The Appellant/Transport Corporation has challenged the award passed by the Motor Accidents Claims Tribunal, (Additional Sub Court), Viruthachalam, in M.C.O.P.No.86 of 2014, dated 24.04.2015 on the grounds of negligence and quantum.



C.M.A.No.1940 of 2017

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.86 of 2014 claiming compensation for the injuries sustained by him in a road accident on 22.06.2011.

(ii) It is the case of the respondent/claimant that he was working as a Coolie and was aged about 45 years. He was earning a monthly income of Rs.10,000/-. On 22.06.2011 at about 10.00 a.m., he was riding the TVS 50 two wheeler bearing Registration No.TN 31 R 0111 along with 50 Kilograms of Urea fertilizer from Palayamkottai to Kallukadai. When he had reached the junction near Hospital Road, a bus bearing Registration No.TN 32 N 2321 belong to the Transport Corporation coming from the opposite direction in a rash and negligent manner and at a high speed, hit the two wheeler in which the respondent was travelling, as a result of which, he was thrown out from the vehicle and sustained severe head injuries as well as multiple injuries all over his body. Thereafter, he was taken to the Chidambaram Raja Muthaih Medical College and Hospital and taken treatment. Therefore, the respondent/claimant had filed a claim petition before the Tribunal claiming a total compensation of a sum of Rs.6,00,000/-.



C.M.A.No.1940 of 2017

3. After adjudication, the Tribunal by its award dated 24.04.2015 awarded a sum of Rs.2,78,408/- as compensation to the respondent/claimant by fastening negligence exclusively on the driver of the appellant/Transport Corporation bus. Challenging this award, 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. He also submitted that, though FIR was registered against the driver of the Transport Corporation, however, the appellant examined R.W.1 and established that the negligence was on the part of the respondent/claimant. However, the same was not properly considered by the Tribunal and the Tribunal had awarded compensation in favour of the respondent/claimant by fixing negligence on the part of the driver of the Transport Corporation, which is not sustainable.

5. Further, he submitted that the compensation awarded under the heads of compensation for disability and others requires modification, since the same are on the higher side.



C.M.A.No.1940 of 2017

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

7. Admittedly, on 22.06.2011 at about 10.00 a.m., the respondent/claimant was riding the TVS 50 two wheeler bearing Registration No.TN 31 R 0111 along with 50 Kilograms of Urea fertilizer from Palayamkottai to Kallukadai. When he had reached the junction near Hospital Road, a bus bearing Registration No.TN 32 N 2321 belong to the Transport Corporation coming from the opposite direction in a rash and negligent manner and at a high speed, hit the two wheeler in which the respondent was travelling, as a result of which, he was thrown out from the vehicle and sustained severe head injuries as well as multiple injuries all over his body.

8. A perusal of the entire papers including the award passed by the Tribunal below would show that the respondent/claimant has examined himself 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.4. Therefore, the



C.M.A.No.1940 of 2017

finding of the Tribunal with reference to negligence does not require any reconsideration. Likewise, the Tribunal has taken 60% as a disability and adopting a sum of Rs.2,000/- per percentage, granted a compensation of Rs.1,20,000/- under the head of compensation for disability, 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.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed and the judgment and decree dated 24.04.2015 made in M.C.O.P.No.86 of 2014 on the file of the Motor Accident Claims Tribunal, (Additional Sub Court), Viruthachalam is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

03.11.2023

Index : Yes / No
Speaking order / Non-speaking order
Netrual Citation Case : Yes / No
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To

- 1.The Motor Accident Claims Tribunal (Additional Sub Court), Viruthachalam.
- 2.The Section Officer, V.R.Section, High Court, Madras.



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C.M.A.No.1940 of 2017

M.DHANDAPANI, J.,

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C.M.A.No.1940 of 2017

03.11.2023