

(2013) 08 MAD CK 0271

In the Madras High Court

Case No : C.M.A(MD)No.1526 of 2013 and M.P.(MD)No.3 of 2013

Tamil Nadu State Transport Corporation Limited

APPELLANT

Vs

K.Thilagar

RESPONDENT

Date of Decision : 26-08-2013

Acts Referred:

Citation : (2014) 2 TNMAC 432

Hon'ble Judges : Mr. R.Karuppiah, J.

Bench : Single Bench

Advocate : Mr.D.Sivaraman, Advocate, for the Applicant

Final Decision : Disposed Off

Judgement

Mr. R.Karuppiah, J.—Aggrieved over the quantum of compensation awarded by the Motor Accident Claims Tribunal/II Additional Sub Court, Madurai, in MCOP No.1262 of 2009, dated 28.07.2011, the Appellant/respondent Transport Corporation filed this Civil Miscellaneous Appeal.

2. The respondent/claimant filed a claim petition for compensation of Rs. 5,00,000/- and in the claim petition, it is stated that on 14.03.2009 at about 3.45 p.m., the claimant travelling in a motor bike bearing registration No.TN.63.F 3387 as a pillion rider and while the vehicle was proceeding from Illanyankudi to R.S.Mangalam near Muthupattinam Bus stop, Ramnad District from east to west, at that time the Appellant Transport Corporation bus bearing registration No.TN63-N-0831 coming from the opposite direction and it was driven by its driver in a rash and negligent manner and dashed against the motor bike. In the accident, the claimant sustained severe head injuries and multiple bleeding injuries. Immediately, he was admitted into Meenakshi Mission Hospital and Research Centre, Madurai, as an inpatient and taken treatment from 14.03.2009 to 31.03.2009. At the time of accident, he was aged about 26 years and he was working as a sale representative and earned a sum of Rs.6,000/- per month and therefore, claimed compensation of Rs.5,00,000/- from the Appellant Transport

Corporation. 3

3. The Appellant/respondent Transport Corporation filed counter, in which it is stated that the accident was not occurred as stated in the claim petition. It is also averred in the counter that on 28.09.2016, the Appellant/respondent Transport Corporation bus driver took the bus bearing registration No.TN-63-N-0831 from Sholandur to Madurai and at about 3.30 p.m., the bus driver stopped the bus at the Muthupattinam Bus stop. At that time, the Hero Honda mother cycle bearing registration No.TN.63 F 3387 was driven by its driver in a drunken mood, in which the claimant was driven as a pillion rider and the motor cyclist came on the left side instead of right side and dashed against the bus. Therefore, the accident had happened only to the rash and negligent driving of the rider of the motor cycle and not the driver of the bus. Further, the claim of compensation is highly excessive. Therefore, the Appellant Transport Corporation is not liable to pay compensation.

4. Before the Tribunal, on the side of the claimant, P.W.1 to PW3 were examined and Exs.P1 to Ex.P14 were marked. On the side of the respondent, R.W.1 was examined and no document was marked.

5. Considering the above said oral and documentary evidence adduced on behalf of both sides, the Tribunal has held that the accident was occurred only due to the negligent driving of the Appellant Transport Corporation Bus driver. With regard to quantum of compensation, the Tribunal has passed the award of compensation under the head of pain and suffering at Rs.20,000/-, for 51% permanent disability at Rs. 4 76,500/-, for transportation Rs.1,000/-, for nutrition at Rs.5,000/- and as per Ex.P6 medical bill at Rs.79,305/- towards medical expenses. Totally, the Tribunal awarded a sum of Rs.1,81,805/- along with interest @ 7.5% p.a. Aggrieved over the above-said award and decree passed by the Tribunal, the Appellant Transport Corporation has filed this Civil Miscellaneous Appeal.

6. With regard to negligent aspect, on the side of the claimant, the claimant himself has deposed as PW1 and also marked F.I.R (Ex.P1), Charge Sheet (Ex.P2) and Motor Vehicle Inspector Reports (Exs.P3 and P4) for both vehicles.

7. A perusal of the above oral evidence of PW1 and the documentary evidence, proved that only due to rash and negligent driving of the Appellant Transport Corporation bus driver, the accident has occurred. On the side of the respondent, the driver of the Bus driver, by name Dhanapal was examined as RW1. A perusal of the above oral testimony of RW1 revealed that so as to escape from the criminal case, he falsely deposed. Further the concerned police has investigated the matter and filed charge sheet as against RW1. Except the interested oral testimony of RW1, no other documentary evidence has been produced on the side of the Appellant. Before this court on the side of the appellant has not seriously questioning the finding regarding negligent aspect but, only challenged the quantum of compensation. Therefore, as rightly held by the tribunal, the

accident has been occurred only due to rash and negligence driving of the appellant/respondent transport corporation bus driver. 5

8. With regard to quantum of compensation, the learned counsel for the Appellant/respondent Transport Corporation has mainly contended that the Tribunal has awarded Rs.76,500/- for partial permanent disability of 51% assessed by PW3 doctor, who has not treated the injured claimant and also not conducted scientific test for assessing the disability and therefore, the above said amount awarded by the Tribunal is excessive.

Further, the learned counsel for the Appellant submitted that the award of Rs. 20,000/- for pain and suffering and Rs.5000/- for extra nourishment are excessive. A perusal of PW1 and PW3 oral evidence and also Ex.P5 Wound Certificate, Ex.P6 Medical Bill, Ex.P7 discharge Summary, Exs.B8 and B9 X rays, Exs.P11 and P12 Case sheets, Ex.P13 Disability Certificate, Ex.P14 X ray reveal that the claimant was sustained various grievous injuries and the doctors as assessed the disability as 51%. On the side of the appellant has not given any acceptable reason to discard the above said disability certificate assessed by PW3 doctor. On the side of the appellant has not examined any doctor to show that the above said disability assessed by PW3 doctor is highly excessive. Further, the tribunal has correctly discussed about the nature of the injuries sustained by the claimant and also disability assessed by the doctor, the tribunal has awarded Rs.76,500/- for permanent disability. The tribunal has considered the injuries treatment and disability awarded a sum of Rs.20,000/- for pain and suffering also reasonable and not excessive. The other award amount of Rs.1,000/- for transportation, Rs.5000/- for extra nourishment and Rs.79,305/- for medical expenses 6 as per Ex.B6, medical bills are also just and reasonable compensation. The tribunal has correctly awarded compensation and therefore, no need to interfere with the quantum of compensation awarded by the tribunal.

9. In the result, this Civil Miscellaneous Appeal is dismissed and award and decree passed by the Tribunal in MCOP No.1262 of 2009, dated 28.07.2011 is confirmed. Consequently, connected Miscellaneous Petition is closed. No costs.