

(2012) 06 MAD CK 0158
In the Madras High Court
Case No : C.M.A. No. 2363 of 2005

Tamil Nadu State Transport Corporation Ltd.

APPELLANT

Vs

B. Balakrishnan

RESPONDENT

Date of Decision : 05-06-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 279, 304(A), 337

Citation : (2012) 06 MAD CK 0158

Hon'ble Judges : R. Karupiah, J

Bench : Single Bench

Advocate : R. Arunmozhi, for the Appellant; M. Anirudhan, for the Respondent

Judgement

R. Karupiah

1. This civil miscellaneous appeal is preferred by appellant-Corporation challenging the quantum of compensation awarded in the judgment and decree dated 30.9.2004, made in M.C.O.P. No. 881 of 2002 on the file of Motor Accidents Claims Tribunal (Sub Judge), Krishnagiri. In the claim petition, the petitioner/respondent has stated that on 29.10.2001, he boarded in the Bus bearing Regn. No. TN 29/N0813 belonging to the respondent-Corporation at Denkanikottah to go to Hosur and while travelling in the said bus, towards Hosur at about 19.30 hours, on account of rash and negligent driving of the driver of the bus, the bus capsized on the left side of the road. It is further stated that the petitioner sustained severe injuries and the accident had occurred only due to the rash and negligent driving of the driver of the bus. A criminal case has been registered in Crime No. 482/2001 on the file of Denkanikottah Police Station under Sections 279, 337 and 304(A) IPC. It is further contended that the

petitioner was aged 45 years at the time of accident and he was running finance company and doing coconut and tamarind business and the

monthly income of the petitioner was Rs. 60,000/- and he claimed compensation of Rs. 5,00,000/- on various heads.

2. The respondent/appellant has denied the abovesaid occupation and income of the petitioner and also contended that the alleged accident was

occurred only due to carelessness of one bicycle rider and also contended that the compensation claimed on various heads are very high.

3. Before the Tribunal, on the side of the claimant, has examined two witnesses as PWs. 1 and 2 and marked three documents as Exs.P1 to P3.

On the side of the respondent, no witness was examined and no document was marked.

4. Considering the oral and documentary evidence, the Tribunal has held that the accident has occurred only due to rash and negligent driving of

the driver of the respondent-bus. The Tribunal has awarded compensation on various heads as under:

Injuries Rs. 75,000.00

Loss of income Rs. 10,000.00

Transportation Rs. 10,000.00

Extra nourishment Rs. 10,000.00

Medical expenses Rs. 10,000.00

Pain and suffering Rs. 25,000.00

Permanent disability Rs. 20,000.00

Loss of future income Rs. 25,000.00

Rs. 1,85,000.00

5. As against the abovesaid award, the respondent/claimant has not filed any appeal or cross-appeal. The appellant/respondent in O.P alone has

filed this appeal requesting to reduce the quantum of compensation awarded by the Tribunal.

6. On the side of the claimant, the claimant himself has deposed as PW.1 and marked Ex.P1-copy of FIR, Ex.P2-copy of wound certificate and

Ex.P3-Permanent disability certificate. There was no contra evidence on the side of the respondent. Therefore, the Tribunal has correctly held that

the accident was occurred only due to rash and negligent driving of the driver of

the respondent bus.

7. With regard to the quantum, the learned counsel for the appellant has mainly contended that the petitioner has sustained only 25% disability as

per the evidence of PW.2 Dr.Ilangovan and Ex.P3-copy of permanent disability certificate, but the Tribunal has awarded Rs. 75,000/- for injuries,

which is excessive and also contended that the Tribunal has awarded again Rs. 20,000/- under the head of permanent disability and further

contended that the other amounts awarded by the Tribunal are excessive and hence prayed for reducing the award amount.

8. The learned counsel for the respondent has contended that considering the nature of injuries and disability, the Tribunal has correctly awarded

compensation and there is no need to interfere with the abovesaid award amount.

9. It is not disputed that the petitioner was aged 45 at the time of accident and he was running finance business and doing coconut and tamarind

business and in the accident, he sustained injuries and as per Ex.P3-copy of permanent disability certificate, the disability was 25%. On the side of

the claimant, he has not proved by sufficient oral and documentary evidence that after the accident he was not doing any business due to injuries

and therefore the Tribunal has correctly not applied the multiplier method but the Tribunal has awarded Rs. 75,000/- for 25% disability without

sufficient reason. The learned counsel for the appellant has strongly objected that the abovesaid award is exorbitant.

10. Considering the nature of injuries sustained by the respondent, 25% disability as per evidence of PW.2 and Ex.P3-permanent disability

certificate, I am of the view that the compensation for injuries (i.e) for permanent disability may be reduced as Rs. 50,000/- from Rs. 75,000/-.

The Tribunal also awarded Rs. 20,000/- under the head of permanent disability. The learned counsel for the appellant has contended that the

Tribunal has wrongly awarded the said amount and therefore prayed for reducing the abovesaid amount and the Tribunal has not given any

sufficient reasons for the award of the abovesaid head again. Therefore the award of Rs. 75000 + Rs. 20,000/- for the head of permanent

disability is to be reduced. With regard to other aspects, the appellant has not seriously objected.

11. Further the learned counsel on both sides admitted that the Tribunal wrongly

calculated Rs. 1,85,000/- as Rs. 1,75,000/- and left out Rs.

10,000/-. Considering the nature of injuries sustained by the petitioner, disability, age, occupation and other aspects, I am of the view that the

award amount passed by the Tribunal is to be modified and reduced as follows:-

Permanent disability Rs. 50,000.00

Loss of income Rs. 10,000.00

Transportation Rs. 10,000.00

Extra nourishment Rs. 10,000.00

Medical expenses Rs. 10,000.00

Pain and suffering Rs. 25,000.00

Future loss of income Rs. 25,000.00

Rs. 1,40,000.00

12. In the result, this Civil Miscellaneous Petition is partly allowed and the compensation amount is modified and reduced from Rs. 1,85,000/- to

Rs. 1,40,000 with interest at 9% per annum. It is reported that the appellant has already deposited Rs. 40,000/- and the appellant is directed to

deposit the remaining amount of Rs. 1,00,000/- with interest at 9% per annum from the date of claim petition till the date of payment within a

period of six weeks from the date of receipt of copy of this Judgment. On such deposit, the respondent/petitioner is permitted to withdraw the

abovesaid amount. No costs.