

(2007) 01 MAD CK 0024
In the Madras High Court

Tamil Nadu State Transport Corporation Ltd.

APPELLANT

Vs

T.M. Krishnaprasad

RESPONDENT

Date of Decision : 19-01-2007

Acts Referred:

Citation : (2007) 2 ACC 61

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Judgement

P.D. Dinakaran, J.—This appeal is by the appellant/transport corporation against the judgment dated 10.6.1998 made in M.C.O.P. No. 4199 of 1995 on the file of Motor Accident Claims Tribunal (VI Judge, Small Causes (Court), Chennai, whereby, the Tribunal has allowed the claim petition filed by the respondent herein and awarded a compensation of Rs. 97,679 (Rupees ninety-seven thousand six hundred and seventy-nine only) with interest at 12%p.a., for the injuries sustained by the respondent/claimant, in a motor accident said to have taken place on 15.7.1995 at 7.15 p.m., near a bridge at Kodambakkam High Road.

2. According to the respondent/claimant, who was examined as P.W. 1, on 15.7.1995 at about 7.15 p.m., when he was travelling in his motor cycle, the bus bearing Registration No. TN-01-N-0612, belonging to the appellant/transport corporation was driven by its driver in a rash and negligent manner and dashed in the front bumper of the motor cycle of the respondent/claimant, as a result of which, he fell down and sustained injuries.

3. A claim petition in M.C.O.P. No. 4199 of 1995 was filed by the respondent/claimant, claiming a compensation of Rs. 2,00,000, for the injuries sustained by him and the appellant/transport corporation resisted the claim on the ground that the accident took place only when the respondent, who drove his vehicle in a rash and negligent manner, overtaking the bus, handle bar of the motor cycle hit the bus, as a result, the claimant fell down and sustained injuries and that it was not due to the rash and negligent driving of the driver of the appellant/

corporation bus and hence, the claim petition has to be dismissed.

4. The Tribunal, after framing the issues, decided the claim petition in favour of the claimants in terms of the impugned judgment. The Tribunal finding that the evidence of the respondent/claimant as P.W. 1 and the evidence of the driver of the bus as R.W. 1 are contradicting to each other, after perusing the rough sketch, Ex. P6, held that the evidence of P.W. 1 can be accepted and, accordingly, came to the conclusion that the accident in question had occurred only due to the rash and negligent driving of the bus by its driver and as a result of the same, the respondent sustained injuries. The Tribunal also, based on the materials available on record, held that the respondent is entitled for compensation in respect of his disability, pain and suffering and towards medical expenses and, accordingly, determined a sum of Rs. 97,679 and awarded the same.

5. The learned Counsel for the appellant/transport corporation reiterated the submissions made before the Tribunal and argued that the Tribunal has erred in holding that the accident had occurred only due to the rash and negligent driving of the driver of the appellant/corporation and also erred in awarding compensation of Rs. 97,679 which is on the higher side. The learned Counsel for the appellant also disputed the rate of interest awarded at 12% p.a., which is contrary to the decision of the Apex Court.

6. There is no representation on behalf of the respondent/claimant. Heard the submissions of the learned Counsel for the appellant and perused the records.

7. A perusal of the order of the Tribunal shows that the Tribunal after taking into consideration the evidence of P.W. 1, the respondent/claimant as well as the evidence of R.W. 1, driver of the bus, came to the conclusion that the evidence of both P.W. 1 and R.W. 1 was found to be contradictory and, accordingly, on careful scrutiny of Ex. P6, the rough sketch, the Tribunal has accepted the evidence of P.W. 1 and held that the accident had taken place only due to the rash and negligent driving of the appellant/corporation bus, which conclusion of the Tribunal, in my view, does not warrant any interference by this Court and hence, I reject the contention of the learned Counsel for the appellant with regard to the negligence.

While coming to the contention with regard to quantum also, I see no reason to interfere with the order of the Tribunal. The Tribunal, based on the available materials, viz., Exs. P.I, the discharge summary, Ex. P2, the out-patient slip, Ex. P3, the salary certificate issued by the Food Corporation of India, where he was working at the time of accident, certifying that he was drawing a monthly salary of Rs. 5,492, and also the evidence of P. W. 2, the doctor, that the respondent/claimant suffered 35% disability due to the fracture in the hip, arrived at a compensation of Rs. 30,000 towards permanent disability and Rs. 5,000 for the injuries suffered, which also, in my considered opinion, cannot be termed as excessive. The Tribunal also arrived at a sum of Rs. 56,679 towards medical

expenses based on Ex. P4, the document showing repayment of loan in instalments, which was availed in order to meet the medical expenses. I am of the view that the said amount awarded towards medical expenses is also found to be normal, as the same is based on documentary evidence and hence, I do not wish to interfere with the same. The amount awarded towards transport charges and towards the expenses incurred for taking nutritious food to the tune of Rs. 1,000 under each head is also found to be very reasonable.

8. With regard to the rate of interest at 12% p.a. awarded by the Tribunal, in view of the decision of the Apex Court in *Kaushnuma Begum v. New India Assurance Co. Ltd.* I (2001) ACC 151 (SC) : 2001(1) Sup 5, I feel it appropriate that reducing the rate of interest from 12% p.a. to 9% p.a. would meet the ends of justice. Accordingly, the respondent/claimant is entitled to compensation as awarded by the Tribunal at the rate of 9% interest per annum and not at the rate of 12 % per annum.

With the above modification in the rate of interest, the appeal is dismissed, however, with no order as to costs.