
(2013) 08 MAD CK 0146

In the Madras High Court

Case No : C.M.A. (MD) No. 1473 of 2013 and M.P. (MD) No. 2 of 2013

The Managing Director

APPELLANT

Vs

Maresh

RESPONDENT

Date of Decision : 06-08-2013

Acts Referred:

Citation : (2013) 08 MAD CK 0146

Hon'ble Judges : R. Karupiah, J

Bench : Single Bench

Advocate : M. Prakash, for the Appellant;

Final Decision : Dismissed

Judgement

R. Karupiah, J.—This Civil Miscellaneous Appeal has been filed as against the Award and Decree, dated 22.10.2010 made in M.C.O.P. No. 305 of 2007 on the file of the Motor Accident Claims Tribunal (II Additional Sub Court) Tenkasi, by the Appellant Tamil Nadu State Transport Corporation. The respondent/claimant filed a claim petition for compensation of Rs. 15,00,000/- for the injuries sustained by him in a motor accident and in the claim petition it is stated that on 06.07.2007 while the injured minor claimant and his father travelled in the appellant/respondent Corporation bus bearing Reg. No. TN-72-N-0910 from Tirunelveli to Tenkasi and due to rash and negligent driving of the driver of the bus, the bus dashed against the another stationed lorry bearing Reg. No. TN-1022 and in the above said accident, the claimant sustained grievous injuries and the claimant was admitted in the Sakthi Hospital at Tirunelveli and taking treatment as inpatient from 06.07.2007 to 07.08.2007. At the time of accident, the injured was aged about 17 years and he was a student and also selling milk and he was agriculturist and earned Rs. 3000/- per month and due to the injuries, he sustained permanent disability and therefore, he claimed compensation of Rs. 15,00,000/- for the above said injuries.

2. The appellant/respondent filed a counter in which denied the manner of

accident alleged in the claim petition and stated that the injured himself was responsible for the accident and therefore, the respondent is not liable to pay compensation. Further, the claimant sustained only simple injuries and the claimant should prove the manner of the accident as alleged in the claim petition, age, injuries, treatment, expenses, permanent disability etc., and further the claim of compensation on various heads are highly excessive and the claimant is entitled to only 5.75% interest per annum.

3. Before the Tribunal, on the side of the claimant examined two witnesses as P.Ws. 1 and 2 and marked 15 documents as Exs. P1 to P15 and on the side of the respondent examined driver of the vehicle alone as R.W. 1 and not marked any documents.

4. The trial Court has considered the above said oral and documentary evidence and it is finally held that the accident was occurred only due to rash and negligent driving of the appellant transport Corporation bus driver. With regard to quantum of compensation, the trial Court has considered that the petitioner has sustained 70% permanent disability and monthly income was fixed as Rs. 3000/- per month and adopted 16 as multiplier and arrived at loss of income as $(24,000 \times 16 \times 70/100) = \text{Rs. } 2,68,800/-$. Apart from that, the Tribunal has awarded Rs. 62,000/- for medical expenses; Rs. 20,000/- for pain and suffering and Rs. 5000 for nutritious food and totally awarded Rs. 3,55,800/- with interest at the rate of 7.5% per annum.

5. Aggrieved the above said Award and Decree passed by the Tribunal, the appellant has filed this Civil Miscellaneous Appeal, challenging the quantum of compensation alone and not questioned the finding regarding negligence aspect.

6. A perusal of the Award reveals that the Tribunal has considered oral the testimony of injured witness P.W. 1 and also Ex. P1 copy of FIR; Ex. P5 copy of Charge Sheet; Ex. P9; copy of Observation Mehazar and Ex. P13 copy of Rough Sketch and correctly held that the accident was occurred only due to rash and negligent driving of R.W. 1 and not accepted the oral testimony of R.W. 1, since the above said witness himself admitted at the time of evidence that in the above said accident the rear side of the glasses in the bus damaged in the above said accident and that itself shows that the accident has not occurred as stated in the counter and only occurred as stated in the claim petition. Further, the appellant Transport Corporation has not challenged the above said finding of the Tribunal.

7. With regard to quantum of compensation, the claimant age is 17 years at the time of accident and it is not in dispute. The Tribunal has taken the income of the deceased as Rs. 3000/- per month which is not excessive. P.W. 2 Doctor has deposed and issued disability certificate and also marked Ex. P10, X-Rays; Ex. P11, Disability Certificate. A perusal of the above said oral and documentary evidence of Doctor and Medical Certificate reveal that the claimant sustained 70% disabilities in the above said accident and he is unable to work as before the accident. In the above said circumstances, the Tribunal has correctly fixed the

compensation for loss of income to the claimant and the above said amount is not exorbitant as contended by the learned counsel for the appellant. The amount awarded by the Tribunal i.e., for medical expenses Rs. 62,000/- on the basis of documents and therefore, it is also not excessive. The amount awarded for pain and suffering and nutrition also not exorbitant. Therefore, the total amount awarded by the Tribunal is just and reasonable and hence, no need to interfere in the above said findings. In the result, this Civil Miscellaneous Appeal is dismissed and the Award and Decree, dated 22.10.2010 passed in M.C.O.P. No. 305 of 2007 by the Motor Accident Claims Tribunal (II Additional Sub Court) Tenkasi, is confirmed. No costs. Consequently, connected miscellaneous petition is closed.