
(2010) 09 MAD CK 0255

In the Madras High Court

Case No : C.M.A. (MD) No. 1336 of 2010

The Managing Director, Pandian Transport Corporation

APPELLANT

Vs

E. Mayandi

RESPONDENT

Date of Decision : 14-09-2010

Acts Referred:

Citation : (2010) 09 MAD CK 0255

Hon'ble Judges : P.P.S. Janarthana Raja, J

Bench : Single Bench

Advocate : R. Janakiramulu, for the Appellant;

Final Decision : Dismissed

Judgement

P.P.S. Janarthana Raja, J.—The appeal is preferred by the Transport Corporation against the award dated 17.04.2006 made in MCOP No. 582 of 1999 by the Motor Accidents Claims Tribunal, IV Additional Sub Court, Madurai.

2. Background facts in a nutshell are as follows:

One Mayandi was injured in a motor vehicle accident that took place on 24.11.1995 at about 8.50 a.m. The said injured was riding his rickshaw in the Goripalayam Main Road at Madurai. At that time, a bus bearing Registration No. TN-59-N-0331 belonging to the Appellant / Transport Corporation came from behind in a rash and negligent manner at high speed and hit the rickshaw. Due to the said impact, the injured sustained multiple grievous injuries. The injured claimed a sum of Rs. 1,50,000/- as compensation. The Appellant / Transport Corporation resisted the claim. On pleadings, the Tribunal framed the following issues:

1. Whether the accident took place due to the rash and negligent driving of the bus belonging to the Appellant?

2. Whether the claimant is entitled to compensation? If so to what extent?

After considering the oral and documentary evidence, the Tribunal held that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the Appellant / Transport Corporation and awarded a sum of Rs. 35,000/- as compensation with interest at 7.5% p.a. from the date of petition. The details of the compensation are as follows:

Rupees Medical bills 2,000/- Pain and suffering 8,000/- Loss due to disability 25,000/- Total... 35,000/-

Aggrieved by that award, the Transport Corporation has filed the present appeal.

3. Learned Counsel for the Appellant/Transport Corporation questioned only the quantum of compensation awarded by the Tribunal and contended that the amount awarded by the Tribunal is excessive, exorbitant and without any basis and justification. Therefore, the award passed by the Tribunal is not in accordance with law and the same has to be set aside.

4. Heard the learned Counsel for the Appellant and perused the materials available on record. On the side of the claimant, P.W.1 to P.W.3 were examined and Ex.P1 to P6 were marked. On the side of the Transport Corporation, R.W.1 was examined and no document was marked. P.W.1 is the claimant. P.W.2 is one Esther Animabel Sigamani, who has produced the records of the Government Hospital. P.W.3 is the doctor. Ex.P1 is the First Information Report. Ex.P2 is the O.P.chit. Ex.P3 is the driving license of the rickshaw. Ex.P4 is the treatment file. Ex.P5 is the disability certificate. Ex.P6 is the x-ray. R.W.1 is the Branch Manager of the Insurance Company. After considering the above oral and documentary evidence, the Tribunal had given a categorical finding that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the Appellant / Transport Corporation and the finding is based on valid materials and evidence. Hence the same is confirmed.

5. The claimant was 45 years old at the time of accident. He is a rickshaw puller. P.W.1 in his evidence has stated that he was earning a sum of Rs. 2,500/- per month. Further it was stated that only the driver of the bus caused the accident, and due to the accident, the claimant suffered multiple grievous injuries. There was also a fracture in left knee and also a fracture in right thigh and a contusion in left ribs. Immediately after the accident, he was taken to the Government Rajaji Hospital, Madurai and later he was taken to a private hospital. P.W.3 is the doctor who examined the claimant and assessed the disability at 25%. Ex.P5 is the disability certificate. In his evidence, he stated that due to the injuries the claimant is unable to do the work as before. After considering the above, the Tribunal awarded a sum of Rs. 25,000/- towards 25% disability. Normally the Courts award a sum of Rs. 1000/- to Rs. 2000/- per percentage of disability. In the present case the Tribunal has considered the facts and circumstances of the case and correctly awarded Rs. 25,000/- towards 25% disability. Hence the same is confirmed. The Tribunal also awarded a sum of Rs. 2,000/- towards medical expenses. There is no dispute that the claimant was admitted in the Government

hospital as well as in a private hospital and certainly he would have incurred medical expenses. Therefore, the amount awarded by the Tribunal at Rs. 2000/- towards medical expenses is very reasonable and hence the same is confirmed. The Tribunal also awarded a sum of Rs. 8,000/- towards pain and suffering. After taking into consideration the nature of injuries stated above, and also the evidence of the Doctor, and the fact that he took treatment in the hospital for a period of 5 days, the award amount towards pain and suffering at Rs. 8,000/- is very reasonable and hence the same is confirmed. With regard to the interest at 7.5% p.a., fixed by the Tribunal, after taking into consideration the date of accident, date of award and the prevailing rate of interest during that time, I am of the view that the same has to be confirmed and accordingly it is confirmed.

6. I do not find any error or illegality in the order of the Tribunal so as to warrant interference. The order of the Tribunal is based on valid materials and evidence. It is a question of fact and it is not a perverse order. In such circumstances, this Court is of the considered view that this is not a fit case for admission and accordingly, the award passed by the Tribunal is in accordance with law and hence the same is confirmed.

7. In the result, the Civil Miscellaneous Appeal is dismissed. Consequently, M.P. (MD) No. 3 of 2010 is closed. No costs.