

The Managing Director. Vs. Mr.P.Murugesan

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Court : Chennai

Decided On : Jun-14-2012

Judge : P.Devadass, J.

Acts : [Motor Vehicles Act, 1988](#) - Section 173

Appeal No. : C.M.A.No.2143 of 2009

Appellant : The Managing Director

Respondent : Mr.P.Murugesan

Advocate for Def. : Mr.A.Shanmugaraj, Adv

Advocate for Pet/Ap. : Mr.N.Anand, Adv.

Judgement :

Civil Miscellaneous Appeal filed under Section 173 of the [Motor Vehicles Act, 1988](#), against the judgment and decree, dated 24.10.2008, passed in M.A.C.T.O.P.No.5183 of 1998, on the file of the Motor Accident Claims Tribunal, (III Small Causes Court) Chennai.

JUDGMENT

1. The State Transport Corporation, aggrieved by the award of the Tribunal, directed this appeal.

2. According to the learned counsel for the Transport Corporation, the deceased sustained injury long back. She died at a latter point of time. So, her death is not due to the road accident injury. Further, the claimant himself had asked for only Rs.2,00,000/- as compensation, however, the Tribunal has awarded him Rs.3,80,500/-.

3. The learned counsel for the respondent submitted that the cause of death has been proved. On evidence, the Tribunal awarded just compensation, it happens to be more than the amount claimed in the claim petition. That amount can be granted.

4. On 12.09.1998, one Anjamal travelled in the Corporation Bus, from Jeyamkondam to Chennai. On the GST Road, near Urapakkam, the bus met with an accident. In that accident Anjamal sustained multiple grievous injuries. On the basis of the evidence on record, the Tribunal concluded that the accident was due to the rash and negligent driving of the bus driver. On a perusal of the evidence, oral and documentary, we concur with this finding of the Tribunal.

5. Anjamal died on 02.06.2006. Originally, Anjamal herself had filed the Claim Petition for claiming compensation for personal injury. During the pendency of the petition, she passed away. Her husband was brought on record. He continued the proceedings. He is the respondent. He deposed as P.W.1, before the Tribunal. The treatment records were produced before the Tribunal. It consists of Discharge Card (Ex.P2) Discharge summary (Ex.P3) Treatment Sheet (Ex.P5) and Treatment Certificate (Ex.P6). In this accident, Anjammal sustained compound fracture on both her legs and also further injuries on her certain parts of her body. On the date of the accident, Anjamal was admitted in Chengalpattu Government Hospital. She was hospitalized from 12.09.1998 to 15.09.1998. Thereafter, she was taken to Government Hospital, Chennai. Surgical treatment was given to her. Due to the development of infection in the wound, she had taken further treatment in the Kilpauk Medical College Hospital, Chennai and again, she was referred to Government General Hospital. Her treatment records shows that Anjamal was under continuous treatment upto her death. Ex.P.6, record is also to that effect.

6. Now, it is known that, at one point of time, Anjamal sustained grievous injuries. It was because of the road accident, injury, she sought for compensation. While the petition was pending, as seen above, she passed away. From the date of sustaining injuries and till her death, Anjamal was in continuous treatment in more than one Hospital. Infection also developed in her wounds. So her cause of death is the of the injuries sustained by her in the road accident.

7. Taking note of her employment, the income, her age and the multiplier, after deducting 1/3 towards her pleasure and other expenses, the Tribunal arrived at the compensation, and totally arrived at Rs.3,80,500/-.

8. In the Claim Petition, the amount claimed is Rs.2,00,000/- The Tribunal has awarded more than that. For the excess, in the decree itself, the Tribunal directed the claimant to pay the additional Court fee.

9. Some times, the claimant asks astronomical figure, as compensation. But the Tribunal, based on evidence adduced, grants less than that. Some times, without knowing the real and relevant factors, which will fetch them more compensation, they are mentioning less amount in their petitions. The Tribunal constituted under the Motor Vehicles Act is statutorily, bound to award them just, fair and reasonable compensation. The Court has to determine it, by applying the basic principles, governing determination of compensation. Grant of compensation is not based on the knowledge of the claimant or their figures mentioned in the petitions. Even if the amount claimed in the Petition is less, if on evidence and on application of the principles governing determination of compensation, if the claimant is eligible for more and it is just compensation, the Tribunal can grant it.

10. In the light of the above, we find no flaw in the award of the Tribunal.

11. In the result, this Civil Miscellaneous Appeal is dismissed. The award of the Tribunal is upheld. Within 4 weeks from the date of receipt of a copy of this judgment, the appellant shall deposit the entire amount, if not already deposited. The respondents are permitted to withdraw the entire amount, as per the order of the Tribunal. No costs.