



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.839 of 2015

and

M.P (MD) .No.2 of 2015

The General Manger,
State Express Transport Corporation,
Pallavan Salai,
Chennai - 2.

... Appellant/Respondent

Vs.

Ganesan

... Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 17.06.2014 made in M.C.O.P No.377 of 2010 on the file of the Motor Vehicle Accident claims Tribunal/ III Additional Sub Court, Thiruchirappalli.

For Appellant : Mr.P.Prabhakaran

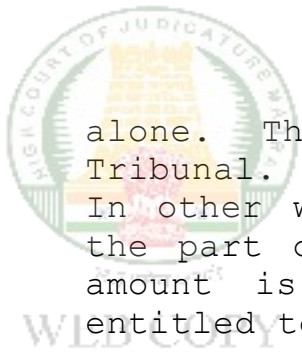
For Respondent : Mr.N.Sudhagar Nagaraj

JUDGMENT

Heard the learned counsel on either side.

2.The Transport Corporation has filed this appeal questioning the award mainly on the ground of liability. It is the case of head on collision involving the bus belonging to the appellant Transport Corporation and the lorry driven by the claimant. It is seen that the bus had suffered damage on the front portion of the right side. Both the parties have not filed the rough sketch. The First Information Report was registered only against the claimant. On behalf of the appellant Corporation, the Conductor who was conversant with the facts of the case was examined. I am therefore of the view that contributory negligence will have to be fixed on the claimant also.

3.The learned counsel appearing for the claimant would point out that in this case, even though a sum of Rs.3,47,618/- was awarded, a sum of Rs.2,00,618/- was spent towards medical expenses



alone. Therefore, I am incline to modify the award passed by the Tribunal. The claimant will be entitled to a sum of Rs.2,47,618. In other words, in view of the contributory negligence fixed on the part of the claimant is quantified as 35%, the compensation amount is reduced by Rs.1,00,000/-. Thus, the claimant is entitled to a sum of Rs.2,47,618/-.

4.The appellant Corporation is directed to deposit the entire compensation amount with interest @ 7.5% per annum from the date of petition till the date of realization and cost within a period of twelve weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimant is permitted to withdraw the entire amount, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

5.This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The III Additional Subordinate Judge,
Motor Vehicle Accident claims Tribunal,
Thiruchirappalli.

Copy to

The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.P.Prabhakaran, Advocate Sr.No.85460
+1cc to Mr.N.Sudhagar Nagaraj, Advocate Sr.No.85941

KMI/DSS

VB/JC/SAR2/27/11/2017/2P/5C

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