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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1717 of 2008
and M.P.No.1 of 2008

The Branch Manager,
Tamil Nadu State Transport
Corporation Limited,
Kumbakonam Division -2,
Periyamilaguparai, Trichy.

...Appellant/ Respondent

Vs

Selvakumar

...Respondent/Claimant

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award made in MCOP No.1031 of 2005 dated 29-03-2007 on the file of Motor Vehicles Accident Claims Tribunal and Chief Judicial Magistrate at Perambalur.

For Appellant : Mr.S.V.Vasanthakumar

For Respondent : Not ready in Notice

JUDGMENT

The instant appeal has been filed by the Transport Corporation challenging the Award dated 29.03.2007, passed by the Motor Accident Claims Tribunal and Chief Judicial Magistrate, Perambalur in M.C.O.P.No.1031 of 2005.

2. The brief facts leading to the filing of the instant appeal are as follows:

(i) The respondent sustained injuries on 27.07.2004 as a result of an accident caused by a bus bearing Registration No. TN-45-N-1853 owned by the Appellant Transport Corporation.



(ii) The respondent preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.1031 of 2005, seeking a compensation of Rs.2,00,000/-.

(iii) The Motor Accident Claims Tribunal, by its Award, dated 29.03.2007 passed in M.C.O.P.No.1031 of 2005, directed the Appellant to pay the respondent a sum of Rs.50,000/- together with interest at 9% per annum from the date of claim till date of realization.

3. Aggrieved by the Award dated 29.03.2007 passed in M.C.O.P.No.1031 of 2005, the instant appeal has been filed by the Appellant Transport Corporation.

4. Heard, Mr.S.V.Vasanthakumar, learned Counsel for the Appellant. Till date, notice has not been served on the respondent. Since, the appeal pertains to the year 2008 and this Court is going to confirm the Award, there is no necessity to serve the notice on the respondent.

5. According to the learned Counsel for the Appellant, the Tribunal has failed to consider that the accident happened only due to negligence and fault of the respondent, who negligently dashed against the bus without observing the traffic rules.

6. Further, he would contend that the compensation awarded by the Tribunal to the respondent is excessive. According to him, the Tribunal awarded Rs.50,000/- for five injuries only without calling for the medical bills and cause of treatment.

7. This Court has examined the impugned Award. The Tribunal has given a categorical finding that only due to the rash and negligent driving by the driver of the bus owned by the Appellant Transport Corporation, the accident had happened, which resulted in injuries sustained by the respondent. The FIR was also registered only against the driver of the bus owned by the Appellant Transport Corporation. No contra evidence has been produced by the Appellant before the Tribunal to disprove the statement contained in the FIR. The Tribunal only after considering the documents produced by the respondent has given a categorical finding that only due to the rash and negligent driving of the driver of the bus owned by the Appellant Transport Corporation, the accident had happened.

8. In his claim petition, and in his deposition, the respondent has stated that he has lost four tooth and has also sustained head injury, as a result of the accident caused by the bus owned by the Appellant Transport



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Corporation. No contra evidence has been produced by the Appellant Transport Corporation to disprove the statement of the respondent, in his claim petition as well as in his deposition before the Tribunal. The Tribunal has awarded a lump sum compensation of Rs.50,000/- for the injuries sustained by him as a result of the accident. Considering the nature of injuries sustained by the respondent, a sum of Rs.50,000/- awarded by the Tribunal as compensation is a just compensation.

9. In the light of the above observations, this Court is of the considered view that there is no merit in the instant appeal. Accordingly, the civil miscellaneous appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The Appellant is directed to deposit the amount as awarded by the Tribunal together with interest at the rate of 9% per annum from the date of claim till the date of realization, after deducting the amount already deposited, if any, to the credit of MCOP.No.1031 of 2005, on the file of the Motor Vehicle Accidents Claims Tribunal and Chief Judicial Magistrate, Perambalur, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the respondent is permitted to withdraw the said sum by filing an appropriate application.

Sd/--

Assistant Registrar(ccc)

//True Copy//

Sub Assistant Registrar

vkr/pam

To

1. The Motor Vehicles Accidents Claims Tribunal,
Chief Judicial Magistrate, Perambalur.

Copy to

The Section Officer, VR Section,
Madras High Court. Chennai.

+1cc to Mr.S.V.Vasanthakumar , Advocate SR.No. 68635

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ASK(29/11/2018)