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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2513 of 2009
and
MP.NO.1/2009

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division-I,
No.37, Mettupalayam Road,
Coimbatore.

...Appellant/Respondent

Vs

Mr.Boopalakrishnan

...Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree made in MACTOP.No.1060 of 2005 dated 18.12.2008 on the file of the Motor Accident Claims Tribunal cum Additional District Court (Fast Track Court No.V), Coimbatore.

For Appellant : Mr.N.Anand

For Respondents : R1 - No appearance

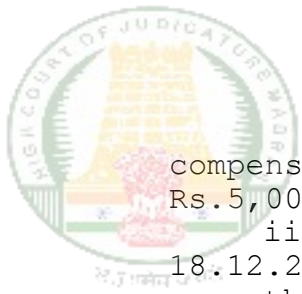
JUDGMENT

The instant appeal has been filed by the Transport Corporation challenging the Award dated 18.12.2008 passed by the Motor Accident Claims Tribunal cum Additional District Court (Fast Track Court No.V), Coimbatore. in MACTOP.No.1060 of 2005.

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

i) The 1st respondent sustained grievous injuries as a result of an accident caused by a bus bearing Registration No.TN-33-N-0970 owned by the appellant transport corporation.

ii) The 1st respondent preferred a compensation claim in MACTOP No.1060 of 2005 against the appellant seeking



compensation of Rs.8,46,500/- which was restricted to Rs.5,00,000/-.

iii) The Motor Accident Claims tribunal, by its Award dated 18.12.2008 in MACTOP No.1060 of 2005 directed the appellant to pay the respondent a sum of Rs.2,44,500/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation and also awarded costs of Rs.9,717.50.

iv) Aggrieved by the Award dated 18.12.2008 passed in MACTOP No.1060 of 2005, the instant appeal has been filed by the Transport Corporation.

3. Heard Mr.N. Anand, learned counsel for the appellant .

4. Despite service of notice on the respondent and his name having been printed in the cause list, today none appears on his behalf.

5. According to the learned counsel for the appellant, the primary ground for challenge in the instant appeal is that the respondent was standing in the foot board and only due to his negligence, he was thrown out of the bus causing injuries to him. Further the learned counsel for the appellant would contend that the multiplier formula ought not to have been adopted by the tribunal while assessing the compensation.

6. This Court, after having considered the materials available on record and after examining the impugned Award and after hearing the submissions of the learned counsel for the appellant observes the following;

(a) In the claim petition, the respondent has declared that he was a paking Master and earning a monthly salary of Rs.5,000/-. He was aged 24 years on the date of the accident. The tribunal under the impugned Award has assessed his notional income only at Rs.3,000/- per month.

(b) Due to the accident, the respondent has suffered 49.67% disability, as seen from the disability certificate Ex.A5. No contra evidence has been produced by the appellant to disprove the percentage of disability suffered by the respondent, as a result of the accident. The respondent in support of his claim, has filed seven documents which were marked as Ex.A.1 to Ex.A7 and included the wound certificate, discharge summary, disability certificate, X-Ray and photograph of the respondent. On the side of the respondent, one eye witness was examined, but whereas on the side of the appellant transport corporation, no document was marked and no witness was examined.

(c) FIR was also registered only against the bus driver and the tribunal has also given a categorical finding that the bus driver was alone at fault. The tribunal has considered all the documents filed by the respondent and has also considered the evidence both oral and documentary and only thereafter has



passed the impugned award. The disability suffered by the respondent is admittedly 49.67 % and therefore the tribunal has applied the multiplier method for assessing the compensation which according to this Court, is a right method.

7. In view 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.

8. The Appellant is directed to deposit the compensation awarded by the tribunal, if not already deposited along with interest as awarded by the tribunal to the credit of MACTOP No.1060 of 2005 before the tribunal within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the respondent/claimant is permitted to withdraw the same on making appropriate application. Consequently, the connected M.P.No.1 of 2009 is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msr

To

1. The Motor Accident Claims Tribunal cum Additional District Court

(Fast Track Court No.V), Coimbatore.

2. The Record Clerk, VR Section,
High Court, Madras.

C.M.A.No.2513 of 2009

mr(co)

nr 27/11/2018