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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2295 of 2006

and

M.P.No.1 of 2006

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division - I,
Coimbatore.

... Appellant /2nd Respondent

Vs.

1.Subramaniam

...1st Respondent/Petitioner

2.Sathyanathan

...2nd Respondent/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 22.02.2005 made in M.C.O.P.No.146 of 2003 on the file of the Motor Accidents Claims Tribunal, II Additional Sub Court, Gopichettypalayam.

For Appellant : Mr.K.J.Sivakumar

Respondents :Not ready Notice

J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal, the appellant Transport Corporation has come up with this Civil Miscellaneous Appeal.

2.The facts of the case are that on 05.08.2002, one Sundararaj was riding a TVS 50 bearing Registration No.TN40 Z 1836, in which the first respondent/claimant was a pillion rider, from Annur to Coimbatore Main Road and at about 19.30 hours, when he was nearing Sathya Weigh Bridge, a bus belonging to the appellant Transport Corporation came from the opposite direction in a rash and negligent manner without observing the traffic rules and dashed against the motor cyclist. Due to the said impact, the first respondent/claimant sustained grievous injuries. He filed a claim petition, claiming a sum of Rs.2,00,000/- as compensation. The Tribunal, considering the



pleadings, oral and documentary evidence, held that the accident had occurred only due to the rash and negligent driving of the driver of the bus and accordingly, directed the appellant Transport Corporation to pay the compensation of Rs.1,48,600/- with interest at 9%p.a. from the date of petition. Aggrieved over the same, the appellant-Transport Corporation is before this Court with the present appeal.

3.The learned counsel for the appellant Transport Corporation has not disputed the liability of the Transport Corporation to pay compensation to the first respondent/claimant. However, with regard to quantum, he submitted that the Tribunal erred in fixing the yearly income of the injured at Rs.18,000/-, without any documentary evidence and hence, the compensation awarded by the Tribunal is excessive and exorbitant.

4.Heard the learned counsel appearing for the appellant and perused the materials available on record.

5.Even though this appeal was admitted way back in the year 2006, no proper steps have been taken on the side of the appellant Transport Corporation to serve papers on the other side.

6.There is no dispute with regard to the finding of the Tribunal 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.

7.As regards the quantum of compensation, the first respondent/claimant himself examined as P.W.1, who deposed in his evidence that he sustained grievous injuries on his head, index finger and other injuries all over the body; he took treatment for 8 days as inpatient at Ramakrishna Hospital, Coimbatore; at the time of accident, he was aged about 50 years and was earning Rs.7,748/- per month by working as Assistant Agricultural Officer. P.W.2 Doctor asserted that the first respondent/claimant suffered 32% permanent disability and Ex.P11 was the disability certificate. Ex.P2 is the wound certificate; Ex.P5 is the discharge summary; Ex.P11 is X Rays numbering two; Ex.P7 is the medical bills; and Ex.P8 is salary certificate of the first respondent/claimant. Considering those oral and documentary evidence, the Tribunal has correctly taken the permanent disability only at 15%, monthly income at Rs.7,000/-, adopted the multiplier of 11 and quantified the loss of income for disability at Rs.1,38,600/-, which need not be interfered by this Court. Further, the Tribunal has awarded Rs.6,000/- towards medical expenses, which is the actual expenses incurred by the first respondent/claimant, based on Ex.P7 and hence, the same is



hereby confirmed. The Tribunal has also awarded Rs.2,000/- towards pain and suffering and Rs.2,000/- towards extra nourishment, which are fair, just and reasonable, considering the nature of the injuries sustained by the first respondent/claimant and are hereby confirmed. Thus, the total compensation of Rs.1,48,600/- awarded by the Tribunal, requires no interference at the hands of this Court.

8.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant Transport Corporation is directed to deposit the entire award amount with interest and costs, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the same to the savings bank account of the first respondent/claimant, within a period of one week thereafter.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gbi
To

The II Additional Sub Court,
Motor Accidents Claims Tribunal,
Gopichettipalayam.

Copy to

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

C.M.A.No.2295 of 2006

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srg 28/11/2019