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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2019

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

C.M.A.No.3812 of 2005

and

C.M.P.No.18976 of 2005

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

... Appellant/Respondent

Vs.

Krishnamurthy

... Respondent/Petitioner

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.04.2005 made in M.C.O.P.No.1133 of 2001 on the file of the Motor Accident Claims Tribunal (Principal Sub Court), Cuddalore.

For Appellant : Mr.K.J.Sivakumar

For Respondent : Mr.R.Sreedhar
for M/s.Sreethi Law Firm

J U D G M E N T

This Civil Miscellaneous Appeal is filed by the State Transport Corporation against the judgment and decree dated 01.04.2005 made in M.C.O.P.No.1133 of 2001 on the file of the Motor Accident Claims Tribunal (Principal Sub Court), Cuddalore (hereinafter referred as 'the Tribunal').

2.It is the case of the respondent/claimant that, on 19.09.2001 at about 20.45 hours, when the respondent was proceeding from West to East on the Cuddalore to Virudhachalam Main Road, near North Seplanatham, the driver of a bus, bearing Registration No.TN-32-N-1159, belonging to the appellant State Transport Corporation, drove the vehicle at high speed, without blowing horn, in a rash and negligent manner and hit the respondent, due to which, the respondent sustained fractures and grievous injuries. The respondent filed a claim petition



seeking compensation of Rs.5,00,000/- (Rupees Five lakhs only). The Tribunal, on analysis of evidence and materials on record, awarded a compensation of Rs.1,24,000/- in toto, with interest @ 9% p.a. from the date of petition.

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3. Challenging the judgment and decree, the instant appeal has been filed by the State Transport Corporation.

4. Learned counsel for the appellant inter alia submitted that the bus bearing Registration No. TN-32-N-1159 was not at all involved in the said accident on 19.09.2001 and moreover, there is a contradiction with regard to the date of accident mentioned in the First Information Report to that of the medical report. He also contended that the accident befell in the year 2001, but the vehicle was sent for inspection only in the year 2003. The learned counsel further submitted that the amount awarded towards loss of future earnings is without any documentary proof and the total compensation awarded by the Tribunal is also excessive and exorbitant.

5. Per contra, learned counsel for the respondent/claimant has submitted that the Tribunal has considered all the material evidences and has awarded the compensation, which is just, fair and reasonable and hence, the judgment of the Tribunal has to be confirmed.

6. Heard the learned counsel on either side and perused the materials available on record.

7. Dr. Sagayarani (P.W.3) has deposed before the Tribunal that the accident took place only on 19.09.2001 and has admitted that the date of accident has been wrongly mentioned in the Accident Register (Ex.P3) as 20.09.2001. Based on the deposition of P.W.3, the Tribunal has found that the accident has occurred only on 19.09.2001. The Tribunal, on considering the evidence on record, and by proper reasoning, has found that the driver of the bus belonging to the appellant alone was responsible for the accident.

8. On account of the fact that the respondent has sustained 40% disability as per Disability Certificate (Ex.P4), the Tribunal has awarded a sum of Rs.40,000/- towards that head. Notwithstanding the fact that the respondent has not produced any document to show his monthly income, the Tribunal, taking note of the age of the respondent at the time of accident, was of the view that the respondent was capable of earning Rs.100/- per day and has accordingly awarded a sum of Rs.60,000/- towards loss of future earnings, which, according to this Court, is fair, just and reasonable. The amounts awarded by the Tribunal towards other heads, viz., Rs.10,000/- towards pain and



sufferings, Rs.2,000/- towards extra nourishment, Rs.3,000/- towards attendant charges and Rs.9,000/- towards loss of income during treatment period, are also fair, just and reasonable.

9. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the impugned judgment and decree passed by the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

10. The appellant State Transport Corporation is directed to deposit the award amount as ordered by the Tribunal with interest, 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, the respondent/claimant is permitted to withdraw the same, on making proper application before the Tribunal.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

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To

1. The Principal Sub-Judge,
Cuddalore.

2. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division - I, Salamedu,
Villupuram.

Copy to

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

+1 CC to Mr. K. J. Sivakumar, Advocate sr 49844

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PPA (CO)
SP (15/11/2019)