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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3928 of 2005
and C.M.P.No.19448 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Villupuram. ... Appellant

Vs

Ganesan ... Respondent

Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 19.11.2004 made in MCOP No.303 of 2004 on the file of the Motor Accidents Claims Tribunal (Additional District Judge), Chidhambaram.

For Appellant : Mr.K.G.Sivakumar

JUDGMENT

This appeal has been filed against the judgment and decree dated 19.11.2004 made in MCOP No.303 of 2004 on the file of the Motor Accidents Claims Tribunal (Additional District Judge), Chidhambaram.

2.The facts of the case would run thus:

On 05.04.2002, when the respondent / claimant was riding his bicycle on the left side of the Meiyathur Main Road, Kattumannar Koil, from North to South direction, the bus bearing Regn.No.TN-32-N-0643 came from the backside in a rash and negligent manner, without making any horn, and dashed against the backside of the bicycle. Due to the said impact, the respondent fell into a canal on the left side of the road and sustained fracture and injuries. The claimant filed a claim petition before the Tribunal. The Tribunal awarded a compensation of Rs.25,000/- with interest at 9% per annum from the date of petition.

3.Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.



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4.The learned counsel for the appellant has submitted that the accident itself has not occurred and that the Tribunal ought to have seen that there is discrepancy in the alleged date of treatment which itself shows the credibility of the claimant.

5.Heard the learned counsel for the appellant.

6.This appeal was admitted way back on 13.12.2005. Even today, it is seen that batta with petition and enclosures are due. The appellant has not taken any steps to serve papers to the other side. Even though a stand has been taken by the appellant about the credibility of the respondent, it is seen that the Tribunal has passed the award only after analysing the evidence given by P.W.2-Palani, who was the eye-witness to the occurrence. Even though P.W.2-Doctor deposed that the claimant suffered 18% disability, the Tribunal has not taken the same into consideration and awarded only Rs.25,000/- considering the injuries sustained by the claimant. In the circumstances, this Court is not inclined to interfere with the award passed by the Tribunal.

7.In view of the above stated circumstances, the Civil Miscellaneous Appeal is dismissed, confirming the impugned judgment and decree passed by the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

8.The appellant 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 six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Motor Accidents Claims Tribunal
Addl.District Judge, Chidhambaram.



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

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