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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.4203 of 2005

The Managing Director
Tamil Nadu State Transport Corporation
Ramakrishna Road
Salem-636 007.

... Appellant/Respondent

Vs

V.Mani

... Respondent/Petitioner

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 23.06.2005 made in MCOP No.810 of 2002 on the file of the Motor Accidents Claims Tribunal (I Additional District Judge, Salem).

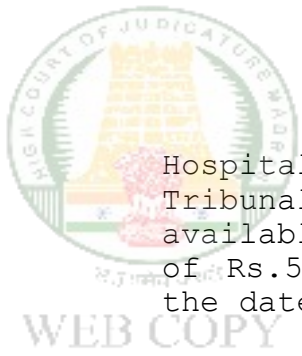
For Appellant : Mr.P.Jagadeeswaran

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.58,000/- towards compensation to the respondent, due to the injuries suffered by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 03.04.2002, the respondent / claimant had been to Chinnappampatty. On his return from Chinnappampatty, he reached Siddhar Koil in a friend's TVS-50 and boarded the town bus (Route No.68A), bearing Reg.No.TN-27-N-1135 belonging to the appellant Transport Corporation, which came from Elampillai bound for Salem. When the bus reached Thirumagal Theatre in the Bye-Pass Road, the claimant, along with others, got down to make way for the passengers who had to get down. Thereafter, while the claimant was entering into the bus in the foot board, the driver of the bus started it suddenly in a rash and negligent manner. Due to the said impact, the claimant fell down from the bus, which resulted in the fracture of his left hand wrist and also making him unconscious. Thereafter, the claimant was taken to the Salem General



Hospital. The claimant filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.58,000/- with interest at the rate of 9% per annum from the date of petition.

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

4.The learned counsel for the appellant has submitted that the Tribunal has erred in holding that the appellant's bus driver was rash and negligent and was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

6.It is seen that the respondent has not been served. Even though this appeal was admitted way back in the year 2005, the appellant Transport Corporation has not taken proper steps to serve papers to the respondent, even at this length of time.

7.The respondent/claimant deposed before the Tribunal that since he fell from the bus, he sustained injuries all over the body. He also deposed that only because the driver of the bus started the bus suddenly in a rash and negligent manner, the accident took place. R.W.1-Viswanathan, conductor of the bus, was also examined. He deposed before the Tribunal that at the time of accident, there was a quarrel between two persons standing near the front foot board of the bus and due to the same, both of them pushed each other and one of them sustained injuries and the injured was chasing the other person. Upon considering the materials and evidence available on record, the Tribunal came to the conclusion that the said deposition of R.W.1 is untrue and accordingly given a finding that only the driver of the bus caused the accident, which finding this Court is not inclined to interfere.

8.In respect of the quantum of compensation, the Tribunal has awarded a sum of Rs.20,000/- towards permanent disability based on Ex.P6-Disability Certificate, Rs.27,000/- towards loss of income, Rs.1,000/- towards transport expenses, Rs.5,000/- each towards medical expenses and pain and suffering. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above heads and hence the same need not be interfered with by this Court.



9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant Transport Corporation is directed to deposit the award amount with interest, as ordered by the Tribunal, 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 being made, the respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

KM

To

The Motor Accidents Claims Tribunal
I Additional District Judge, Salem.

Copy To : The Section Officer,
VR Section, Madras High Court.

C.M.A.No.4203 of 2005

RJI (CO)
GMY (16/10/2019)