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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1879 of 2009

and M.P.No.1 of 2009

Metropolitan Transport Corporation
Limited, Division-I
rep.by its Managing Director
Pallavan Salai,
Chennai-600 002.

(Cause Title accepted vide order of
Court dated 19.09.2006 made in
M.P.No.1 of 2006 in CMA SR.No.
82538 of 2005).

..Appellant /Respondent

Vs

S.Gunasekaran

..Respondent/Claimant

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 06.01.2004 made in MCOP No.4313 of
1999 on the file of the Motor Accidents Claims Tribunal (II
Judge, Small Causes Court), Chennai.

For Appellant : Mr.S.V.Vasanthakumar

JUDGMENT

This appeal is preferred by the appellant Transport
Corporation against the award of a sum of Rs.60,200/- 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 25.06.1997 at about 22.15 hours,
the respondent herein was driving his auto-rickshaw bearing
Reg.No.TN-09-H-4284 from Manapakkam to Kodambakkam on the Mount
Poonamallee Road, Chennai. When he reached near Nandambakkam
opposite to Greenland Hotel, the bus bearing Reg.No.TN-01-N-1992
belonging to the appellant Transport Corporation came in a rash
and negligent manner at high speed from the opposite direction
and dashed against the auto-rickshaw, which the respondent was
driving. Due to the said impact, the respondent sustained
grievous injuries. The respondent/ claimant filed a claim
petition before the Tribunal. On consideration of the materials
and evidence available on record, the Tribunal awarded a total

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compensation of Rs.60,200/- 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 batta with petition due in respect of the respondent. Even though this appeal was admitted way back in the year 2009, the appellant Transport Corporation has not taken proper steps to serve papers to the respondent, even at this length of time.

7.It was deposed before the Tribunal by the respondent / claimant who has been examined as P.W.1, that the driver of the bus drove it in a rash and negligent manner and dashed against the auto-rickshaw which he was driving and due to the same, he sustained grievous injuries. The driver of the bus was examined as R.W.1. He deposed before the Tribunal that since the auto-rickshaw of the respondent suddenly turned towards the side the bus was moving, the accident had occurred. It is seen that a criminal case has been filed in this connection, against the driver of the bus, in Crime No.213 of 1997 on the file of the Nandambakkam Traffic Investigation Wing. Taking note of the materials and evidence available on record, the Tribunal came to the conclusion 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, 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.4,000/- towards loss of income, Rs.1,000/- towards transport expenses, Rs.1,000/- towards extra nourishment, Rs.200/- towards damages to clothes, Rs.1,000/- towards medicines, Rs.5,000/- towards pain and suffering and Rs.40,000/- towards permanent disability based on the evidence of P.W.2-Doctor and Ex.P4-Disability Certificate. The Tribunal has also awarded a sum of Rs.8,000/- in respect of disability in driving the auto-rickshaw due to the injuries suffered by him. The Tribunal has considered the materials and evidence properly

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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. Consequently, the connected miscellaneous petition is closed. 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 (C.S.VIII)

/True Copy/

Sub Assistant Registrar

To

The II Judge,
Motor Accidents Claims Tribunal,
Chennai.

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

AKM/20.03.2020 /3P-3C/

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