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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1923 of 2019

and

C.M.P.No.6697 of 2019

Tamil Nadu State Transport Corporation
Kumbakonam Division,
having office at
Railway Station Road,
Kumbakonam Town,
through its Managing Director. .. Appellant/ Respondents

Vs.

S.Meenakshi .. Respondents/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.10.2010 made in M.C.O.P.No.122 of 2009 on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Mayiladuthurai, Nagapattinam District.

For Appellant : Mr.N.Anand

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation against the award dated 28.10.2010 made in M.C.O.P.No.122 of 2009 on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Mayiladuthurai, Nagapattinam District.

2.The appellant/Transport Corporation is respondent in M.C.O.P.No.122 of 2009 on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Mayiladuthurai, Nagapattinam District. The respondent filed the said claim petition claiming a sum of Rs.8,00,000/- for the injuries sustained by her in the accident that took place on 06.02.2009. The Tribunal,



considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation and directed the appellant/Transport Corporation to pay a sum of Rs.1,83,650/- as compensation to the respondent. Against the said award dated 28.10.2010 made in M.C.O.P.No.122 of 2009, granting compensation to the respondent, the appellant/Transport Corporation has come out with the present appeal.

3.The learned counsel appearing for the appellant/Transport Corporation contended that the Tribunal failed to see that the accident has occurred only due to rash and negligent riding by the rider of the motorcycle in which the respondent travelled as pillion rider. The Tribunal failed to note that the driver of the motorcycle drove the same in a rash and negligent manner and dashed against the bus belonging to the appellant/Transport Corporation. The Tribunal ought to have fixed contributory negligence on the part of the rider of the motorcycle. P.W.2/Doctor, who gave evidence, has not treated the respondent and the Tribunal erroneously awarded excessive amount of Rs.1,83,650/- as compensation and prayed for setting aside the award of the Tribunal.

4.Heard the learned counsel appearing for the appellant/Transport Corporation and perused all the materials available on record.

5.From the materials available on record, it is seen that the respondent examined herself as P.W.1 and deposed about the manner of accident. FIR was registered against the driver of the bus belonging to the appellant/Transport Corporation. The appellant has not let in any evidence to disprove the evidence of P.W.1 and contents of FIR. In view of the same, the finding of the Tribunal that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation is not erroneous warranting interference by this Court.

6.As far as quantum of compensation is concerned, the respondent examined P.W.2/Doctor, who deposed about the nature of injuries, treatment taken by the respondent and assessed the percentage of disability suffered by the respondent. The appellant has not let in any evidence to prove that the percentage of disability assessed by the Doctor is excessive. The Tribunal considering the above materials with regard to injuries sustained by the respondent and percentage of disability, awarded compensation under different heads, which are not excessive warranting interference by this Court.



7. In the result, this Civil Miscellaneous Appeal is dismissed and the sum of Rs.1,83,650/- awarded by the Tribunal as compensation to the respondent/claimant, along with interest and costs is confirmed. The appellant/Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.122 of 2009. On such deposit, the respondent/claimant is permitted to withdraw the entire amount awarded by the Tribunal along with interest and costs, less the amount if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To
1. The Additional Subordinate Judge,
(Motor Accident Claims Tribunal),
Mayiladuthurai,
Nagapattinam District.

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

+1cc to Mr.N.Anand, Advocate SR.No.26442

C.M.A.No.1923 of 2019
and
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SKV(CO)
GMY(05/09/2019)