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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2019

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.(MD)Nos.378 and 1388 of 2013

C.M.A.(MD)No.378 of 2013

The General Manager,
Tamil Nadu State Transport Corporation Limited,
Vannarpettai,
Tirunelveli 3. ... Appellant/Respondent

Vs.

Habib Mohammed ... Respondent/Petitioner

Prayer in C.M.A.(MD).No.378/2013: The Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.232 of 2010, dated 18.10.2011 on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Tirunelveli.

For Appellant : Mr.P.Prabhakaran

For Respondent : Mr.T.Selvakumaran

C.M.A.(MD)No.1388 of 2013

Habib Mohammed ... Appellant/Petitioner

Vs.

The General Manager,
Tamil Nadu State Transport Corporation Limited,
Vannarpettai,
Tirunelveli 3. ... Respondent/Respondent

Prayer in C.M.A.(MD).No.1388/2013: The Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.232 of 2010, dated 18.10.2011 on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Tirunelveli.

For Appellant : Mr.T.Selvakumaran
For Respondent : Mr.P.Prabhakaran

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C O M M O N J U D G M E N T

Since the issue involved in both the appeals are identical, they were heard together and disposed of by a common judgment.

2. C.M.A.(MD).No.378 of 2013 has been filed by the Transport Corporation challenging the liabilities and quantum of compensation awarded by the Tribunal in M.C.O.P.No.232 of 2010, dated 18.10.2011 and C.M.A.(MD).No.1388 of 2013 has been filed by the claimant challenging the quantum of compensation awarded by the Tribunal in M.C.O.P.No.232 of 2010, dated 18.10.2011.

3. The learned counsel appearing for the appellant/Transport Corporation contended that both the rider of the two wheeler as well as the pillion rider are minors. The claimant is represented by his father, who was the owner of the vehicle. In such circumstances, it is for the claimant to prove whether he was having a valid licence or not and he attained the age of 18 or not. He further contended that when the two wheeler tried to overtake the tipper lorry and due to the rash and negligent driving on the part of the rider of the two wheeler, the two wheeler hit the Transport Corporation bus and thereby the accident was occurred. Initially, a F.I.R was registered against the driver of the Transport Corporation bus. Subsequently, it was closed as 'Mistake of Fact'. It is further contended that the Tribunal, without considering all these aspects, fixed the entire liabilities against the Transport Corporation holding that the accident had occurred due to the rash and negligent driving of the driver of the Transport Corporation bus.

4. The learned counsel appearing for the respondent/claimant contended that if at all if there is any claim for the Transport Corporation with regard to the age of the pillion rider and doubt about the possession of licence, it is for the Transport Corporation to examine the R.T.O. or the appropriate person to establish whether the pillion rider was having a valid licence or attained the age of 18. According to the claimant, the pillion rider was holding the valid licence and he attained the age of 18 and in such circumstances, there is no need to prove anything further. He further contended that the injured was sustained 70% disability and he lost his one eye and one leg was also amputated. Considering all these aspects only the Tribunal fixed the entire liability on the Transport Corporation and awarded compensation by fixing a sum of Rs.3,000/- as notional income. Further, he contended that the notional income fixed by the Tribunal is very low and in the present case, the occurrence was occurred in the year 2010 and at least the Tribunal should fix some higher amount, since the injured was studying in 12th standard.

5. At this juncture, the learned counsel appearing for the

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Transport Corporation pleaded before this Court to confirm the award passed by the Tribunal, without any enhancement of award as pleaded by the claimant. The learned counsel appearing for the respondent/claimant also agreed for the same and pleaded before this Court to confirm the award.

6. In view of the submission made by the learned counsel for the appellant/Transport Corporation as well as the respondent/claimant, this Court, without going into the merits of the case, confirms the award passed by the Tribunal. Hence, both the appeals are liable to be dismissed. Accordingly, both the Civil Miscellaneous Appeals are dismissed. No costs.

7. The learned counsel for the appellant/Transport Corporation submitted that 50% of the award amount already deposited along with 7.5% interest. Hence, the appellant/Transport Corporation is directed to deposit the balance 50% of the award amount along with interest at the rate of 7.5 % per annum from the date of claim petition till the date of deposit, to the credit of the claim petition, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal is directed to transfer the said amount directly to the Personal Savings Account Number of the claimant by way of RTGS/NEFT system, after getting his Account Details, within a period of three weeks thereafter. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

akv

To

The Principal Subordinate Judge,
Motor Accident Claims Tribunal,
Tirunelveli.

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-97148[F] dated 08/11/2019)

+1 CC to M/s.T. SELVAKUMARAN, Advocate (SR-97447[F] dated 12/11/2019

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