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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2020

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.No.1902 of 2020

and

CMP No.14063 of 2020

The Managing Director,
Tamilnadu State Transport Corporation(Kumbakonam) Ltd.,
Railway Station Road,
Kumbakonam. ... Appellant/Respondent

Vs.

Saravanan ... Respondent/Petitioner

PRAYER:- Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act, 1988, to set aside the award passed by the Motor Accident Claims Tribunal, Principal Judge, Tindivanam, in MCOP No.580 of 2019, dated 27.11.2019.

For Appellant : Mrs. P. Rajathi
for Mr.D.Raghu

J U D G M E N T

Feeling aggrieved with the award passed by the tribunal, the appellant/Transport Corporation is before this Court with this appeal.

2. The case of the claimant in brief is as follows:-

It is a case of injury. On 19.08.2018, at about 3.00 p.m., while the claimant/injured was riding a two wheeler from Tindivanam to Chennai, a National Transport Corporation Bus, belongs to the appellant/transport corporation, came in a rash and negligent manner in the opposite direction and dashed against the injured, in which, he sustained serious injuries on his head and all over his body and also sustained fracture in his leg. Immediately, he was admitted in the Government Hospital, Mundiyanbakkam, and thereafter shifted to Rajiv Gandhi



Hospital, Chennai and taken treatment, due to the accident, he sustained disability. Hence, claiming compensation of Rs.20 lakhs, claim petition has been filed.

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3. The respondent/Transport Corporation contested the claim petition on the ground that the accident has taken place due to the negligent act of the injured. Since the injured/claimant has suddenly turned his vehicle without giving signal, he dashed against the bus and sustained injury, no negligence can be fixed on the driver of the bus. The Transport Corporation also disputed the monthly income of the deceased.

4. In order to prove the case, before the Tribunal, the claimant examined himself as P.W.1 and marked as many as 9 exhibits. On the side of the respondent, neither any witness nor document has been marked. The disability certificate issued by the Medical Board was marked as Ex.C.1.

5. The Tribunal, after considering the materials, came to the conclusion that the accident has taken place due to the rash and negligent driving of the driver of the bus and considering the disability at 14% , the Tribunal awarded a sum of Rs.42,000/- towards disability. In respect of other heads, Tribunal awarded a sum of Rs.50,000/- towards pain and sufferings, Rs.10,000/- towards Extra Nourishment, Rs.1000/- towards damage of clothes, Rs.3000/- towards Medical Bills, Rs.10,000/- towards Transportation, Rs.4000/- towards attender charges and in total a sum of Rs.1,20,000/- has been awarded as compensation. Now, aggrieved over the same, the Transport Corporation is before this Court with this appeal.

6. The learned counsel appearing for the appellant would submit that the accident has taken place only due to the negligent act of the claimant. The trial Court without considering the evidence on proper perspective, fixed the negligence on the driver of the Transport Corporation Bus. That apart, the Tribunal has awarded huge sum towards disability since he suffered minor injuries and on the other heads also the Tribunal granted huge compensation.

7. I have considered the submission made by the learned counsel for the petitioner and perused the materials available on records carefully.



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8. So far as the negligence is concerned, the claimant/injured examined himself as P.W.1 and he deposed that the Transport Corporation bus came in a negligent manner and dashed against the injured/claimant. Even though the Transport Corporation contested that the accident has taken place due to the negligent driving of the injured/claimant, to prove the same, no oral or documentary evidence has been produced. Considering all the above circumstances, the Tribunal fixed the negligence on the driver of the bus and this Court finds no infirmity in it.

9. So far as the quantum of compensation is concerned, the claimant was referred to Medical Board and the Medical Board assessed the disability at 14% and therefore, the Tribunal fixed Rs.3000/- for each percentage and granted a sum of Rs.42,000/- which is not excessive. That apart, towards pain and sufferings, a sum of Rs.15,000/- was granted by the Tribunal. Considering the nature of injuries suffered by the claimant and that he was also admitted in the hospital for a long period, it is also not excessive. In respect of other heads also, only a minimum amount has been granted by the Tribunal. In the said circumstances, this Court does not find any error in the order passed by the Tribunal and there is no reason to interfere with the same and this Court finds no merit in the appeal.

10. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar(AD II)

//True copy//

Sub Assistant Registrar

mrp
To:

The Motor Accidents Claims Tribunal,
Principal Court, Tindivanam.

+1cc to Mr.D.Raghu, Advocate SR.No.42071

C.M.A.No.1902 of 2020

AK II(CO)
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