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C.M.A.(MD).No.284 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 08.12.2020

DATE ON WHICH PRONOUNCED : 14.12.2020

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

C.M.A. (MD) .No.284 of 2010

in

MP (MD) No. 1 of 2010

Tamil Nadu State Transport Corporation Ltd.,
represented through its Managing Director,
Bye-Pass Road,
Madurai.

: Appellant /Respondent

Vs.

R.Ganesan

: Respondent/ Petitioner

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.10.2007 in M.C.O.P.No.1897 of 2002 on the file of the Motor Accident Claims Tribunal, IV Additional Subordinate Judge, Madurai.

For Appellant : Mr.S.Royce Emmanuvel

For Respondent : No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 24.10.2007 in M.C.O.P.No.1897 of 2002 on the file of the learned Motor Accident Claims Tribunal, IV Additional Sub Judge, Madurai.

2.The case of the claimant before the Tribunal:-

The petitioner was riding as pillion rider in two wheeler bearing Registration No.TN-59-Y-2041. On 28.10.2001, at about 07.15 hours in the Morning from Vikramangalam to Checkanurani which was driven by one Katturaja by keeping left side of the road. At that time, the respondents/Appellants bus bearing Registration No.TN-59-N-0917 came from Sourth - North direction in a rash and negligent manner and dashed against the vehicle. In which, the petitioner, who was travelling as a pillion rider fell down and sustained injuries. Thereafter, he was taken to Rajaji Government Hospital, Madurai and he took treatment as inpatient from 28.10.2001 to 09.11.2001 and he is still taking treatment as out patient because of injuries made by the accident. Due to which, he has not been able to do his regular work. So, he claimed a compensation amount of Rs.5,00,000/- from the appellant corporation.



3.The case of the appellant/respondent before the Tribunal:-

It is denied that only because of the rash and negligent driving on the part of the driver of the appellant, the accident took place. Only the rider of the motor cycle was negligent and invited accident. with these pleadings parties went to an enquiry.

4. on the side of the petitioner, 6 witnesses were examined and 16 documents were marked and on the side of the appellant/respondent, 1 witness was examined and no document was marked.

5. At the conclusion of enquiry, the Tribunal came to the conclusion that the accident took place only because of the rash and negligent driving of the driver of the appellant and assessed the compensation amount as Rs.1,78,700/- with interest and cost. Against which, this appeal has been preferred.

6.Point:-

In the ground of appeal, the negligence aspects has also been raised that is only because of the negligent driving on the part of the two wheeler, the accident took place. The Tribunal after relying upon the evidence of the petitioner and the averments made in the First Information Report / Ex.P.1 as well as the evidence given by the appellant driver, came to the conclusion that only because of the negligent driving on the part of the driver of the appellant, the accident took place. Relying upon the evidence of the petitioner / P.W.1, FIR / Ex.P.1 and the driver of the appellant / R.W.1, came to the conclusion that only R.W.1 was rash and negligent in his driving. Moreover, from the manner of the accident, it is also clearly established that only R.W.1 was at fault. No materials are available to differ from this conclusion.

7. Regarding the compensation, the Tribunal took into account of the discharge summary / Ex.P.2, medical treatment bills / Ex.P.4 to Ex.P.6, physiotherapy charges / Ex.P.7 and disability certificate / Ex.P.13, which was issued by the Doctor namely P.W.4, came to the conclusion that the petitioner suffered and sustained fracture on his right leg both bones, right leg femur bone and right hand radius bone. By surgery, plates and screws were crafted to him. The petitioner suffered three fractures and fixed plates in his bones and taking into account of the evidence of P.W.4 and P.W.1, the Tribunal has assessed the disability at 44 %. So, a sum of Rs.44,000/- was awarded towards disability, Rs.15,000/- towards pain and suffering, Rs.5,000/- towards Extra Nourishment, and Rs.50,000/- towards Medical Expenses. The total award amount of Rs.1,78,700 was arrived by the process.

8. From the evidence on record, this Court finds that the compensation amount fixed by the Tribunal is fair, just and reasonable. Hence, it requires no interference and the award passed by the Tribunal is confirmed.



9. Accordingly this Civil Miscellaneous Appeal is dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

Dss

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

- 1.The IV Additional Subordinate Judge
Motor Accident Claims Tribunal,
Madurai.
- 2.The Section Officer, VR Section, (2 copies)
Madurai Bench of Madras High Court,
Madurai.

judgment made in
C.M.A. (MD) .No284 of 2010 in
MP (MD) No. 1 of 2010
14.12.2020

VB (30.12.2020) 3P 4C