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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.15 of 2020

Dhanamary

...Appellant/Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House, Anna Salai,
Chennai - 600 002.

...Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 15.10.2019 made in M.C.O.P.No.648 of 2016, on the file of the Motor Accidents Claims Tribunal, Principal Special Judge, Special Court under E.C. & NDPS Act, Chennai.

For Appellant : Mr.Amar D Pandiya

For Respondent : Mr.K.Moorthy

JUDGMENT

The appellant is aggrieved by the impugned Judgment and decree dated 15.10.2019 passed by the Motor Accidents Claims Tribunal, Principal Special Judge, Special Court under E.C. & NDPS Act, Chennai in M.C.O.P.No. 648 of 2016.

2.The Tribunal has rejected the claim petition filed by the appellant, on the ground that there was also an accident injured due to the motor car with the following observations:-

The A R recitals would show that ''two wheeler tyre got bursted'' No negligence could be attributed to the driver, for the tyre burst, which is the fact that it is sheer Act of God. Even though it is a



beneficial legislation, this is a case where the petitioner shall not be entitled to any compensation. Moreover, there is no medical records filed by the petitioner.

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3.The Tribunal has referred to Ex.P1 FIR to conclude that there was a tyre burst which was an Act of God. The appellant has filed only four documents namely FIR, Accident Register Copy, Copy of Aadhar Card and Copy of the Bank Pass Book and had claimed a compensation of Rs.10,00,000/- before the Tribunal. In this appeal, the appellant has restricted the compensation to Rs.3,00,000/-.

4.Heard the learned counsel for the appellant and the respondent.

5.The Tribunal has rejected the claim petition filed by the appellant on a totally erroneous ground that the injury was due to an Act of God, even though, the injury was due to tyre burst. I am therefore of the view, that the Tribunal erred in dismissing the claim petition. At the same time, it is noticed that the petitioner had extracts of the Accident Register (AR) in Ex.P.2. The petitioner appears to have suffered minor injuries. The nature of injury as per the claim observed as far as follows:-

- (i)Left leg Abrasion
- (ii)Multiple grievous injuries all over the body

6.However, there are no records to substantiate the nature of injury. Fact of injury suffered by the Appellant is established.

7.Considering the same, I am inclined to award a sum of Rs.10,000/- as compensation. The respondent/Transport Corporation is therefore directed to pay aforesaid sum of Rs.10,000/- together with interest at 6% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of six weeks from the date of receipt of a copy of this Judgment.

8.On such deposit being made by the respondent/Transport Corporation, the appellant/claimant is permitted to withdraw the same together with interest accrued thereon, less any amount already withdrawn.



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9.This Civil Miscellaneous Appeal stands partly allowed with the above observations. No costs.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

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To:

1.The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House, Anna Salai,
Chennai - 600 002.

2.The Motor Accidents Claims Tribunal,
Principal Special Judge, Special Court
under E.C. & NDPS Act, Chennai.

3. The Section Officer
V.R.Section,
Madras High Court, Madras.

+1 CC to Mr.K.Moorthy, Advocate sr 21963(23/12/2021)

+1 CC to Mr.S. Ravi Kumar, Advocate sr 22389(23/12/2021)

C.M.A.No.15 of 2020

RLD(CO)
SP(06/12/2021)