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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.NO.4119 OF 2019

AND

C.M.P.NO.23251 OF 2019

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Villupuram Division I,
Tiruvannamalai Region,
Office at, New Bye Pass Road,
Near Collectorate Complex,
Vengikkal Village,
Tiruvannamalai.

.. Appellant/Respondent

..Vs..

Sowbarnahan

.. Respondent/Petitioner

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 27.07.2018 made in M.C.O.P.No.87 of 2017 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tiruvannamalai.

For Appellant : Mr.K.J.Sivakumar

For Respondent : No appearance

J U D G M E N T

The matter is heard through "Video Conferencing".

2.This Civil Miscellaneous Appeal has been filed against the award dated 27.07.2018 made in M.C.O.P.No.87 of 2017 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tiruvannamalai.

3.The appellant is the respondent in M.C.O.P.No.87 of 2017 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tiruvannamalai. The respondent filed the above said claim



petition claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 21.07.2016.

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4. According to respondent, on 21.07.2016 at about 03.00 hours, while he was riding his motorcycle on the extreme left side of the Big Street in Tiruvannamalai Town from East to West, the driver of the bus belonging to appellant-Transport Corporation, who was driving the bus from Bangalore to Tiruvannamalai, drove the bus in a rash and negligent manner and suddenly turned the bus towards Big Street at a high speed and dashed against the motorcycle rode by the respondent and caused the accident. In the accident, the respondent suffered fractures on his right ankle, injuries on left fore arm, elbow, right hand and multiple injuries all over his body. Immediately after the accident, the respondent was taken to Government Tiruvannamalai Medical College Hospital, Tiruvannamalai and thereafter he was taken to MIOT Hospital, Chennai for further treatment. Therefore, the respondent filed the said claim petition claiming a sum of Rs.15,00,000/- as compensation against the appellant-Transport Corporation.

5. The appellant-Transport Corporation filed counter statement and denied all the averments made by the respondent. According to the appellant, the driver of the bus drove the bus cautiously at a moderate speed by following the road traffic rules from Bangalore to Tiruvannamalai. While the driver of the bus was turning the bus opposite to Krishna Lodge at Big Street, he saw the respondent riding the unregistered motorcycle from the opposite direction without wearing helmet and by not following the road traffic rules. On seeing the negligent riding of the motorcycle by the respondent, the driver of the bus applied brakes and stopped the bus. Eventhough the bus was stopped, the respondent got feared on seeing the bus, dashed on the front right bumper of the bus while he tried to turn the motorcycle to the left side and invited the accident. Therefore, the accident has not occurred due to the negligence on the part of the driver of the bus belonging to appellant, whereas the accident has occurred only due to the negligence on the part of the respondent. There was no valid Fitness Certificate for the motorcycle rode by the respondent. The respondent would have averted the accident, had he rode the motorcycle by wearing helmet and by following the road traffic rules. Therefore, the appellant is not liable to pay any compensation to the respondent. Further, the respondent took treatment in a Private Hospital only with an intention to get more compensation from the appellant-Transport Corporation. The respondent denied the age, avocation, nature of injuries, disability, medical expenses



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12. It is the case of the respondent that the accident has occurred while he was riding the motorcycle, the driver of the bus belonging to appellant drove the bus in a rash and negligent manner and dashed against the motorcycle and caused the accident. In the accident, the respondent suffered multiple injuries and claimed compensation against the appellant-



Transport Corporation. In support of his case, the respondent examined himself as P.W.1 and examined one Venkatesan, eyewitness to the accident as P.W.2 and marked F.I.R. as Ex.P1. On the other hand, it is the case of the appellant-Transport Corporation that respondent only rode the motorcycle in a rash and negligent manner and dashed against the bus and invited the accident. It is the further case of the appellant that F.I.R. was registered only against the respondent. In support of their case, the Driver of the bus was examined as R.W.1 and Conductor of the bus was examined as R.W.2. The Tribunal considering the averments in the counter statement, evidence of R.W.1 & R.W.2, found contradiction in the evidence of R.W.1 and R.W.2 to the averments in the counter statement filed by the appellant and also contradictions in the evidence of R.W.1 & R.W.2. In view of the contradictions, the Tribunal did not accept the evidence of R.W.1 & R.W.2.

13.From the materials on record, it is seen that F.I.R. was lodged by R.W.2/Conductor of the bus, who is an interested person. The respondent has stated that due to the injuries, he has taken treatment in the Hospital. Taking advantage of the same, R.W.2 lodged false complaint against the respondent. The Tribunal accepted the evidence of respondent as P.W.1 and P.W.2/eyewitness and held that accident has occurred only due to rash and negligent driving by the driver of the bus belonging to appellant-Transport Corporation. There is no error in the said finding of the Tribunal warranting interference by this Court.

13.As far as quantum of compensation is concerned, the Tribunal considered Ex.P5/photographs along with C.D. and held that scars on the respondent caused disfigurement in the left hand and right leg. Considering the injuries sustained by the respondent, the Tribunal has granted a sum of Rs.1,50,000/- towards pain and sufferings. The Tribunal has not granted any amount for disfigurement and loss of amenities separately. The Tribunal considering Ex.P2/Medical Bill issued by MIOT Hospital, Chennai for a sum of Rs.4,75,837/- granted a sum of Rs.4,85,000/- for medical expenses and transportation. In view of the same, the amounts awarded by the Tribunal towards pain and sufferings and medical expenses are not excessive and the same are not interfered with. The total compensation awarded by the Tribunal is not excessive warranting interference by this Court.

14.In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.7,50,000/- awarded by the Tribunal as compensation to the respondent, 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 if any already deposited, 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.87 of 2017 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tiruvannamalai. On such deposit, the respondent is permitted to withdraw the award amount along with interest and costs after adjusting the amount if any already withdrawn, by filing necessary applications before the Tribunal. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Subordinate Judge,
Motor Accidents Claims Tribunal,
Tiruvannamalai.
2. The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.3663

C.M.A.No.4119 of 2019

NRL (CO)
CS/13/09/2021