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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2021

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1289 of 2016

and

C.M.P.No.9931 of 2016

The Managing Director,
Tamilnadu State Transport Corporation,
Villupuram,
3/137, Salamedu, Vazhudhareddu,
Villupuram – 605 602.

... Appellant

..Vs..

A.Suresh

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree passed by the Motor Accident Claims Tribunal, Tindivanam (in the court of Additional Subordinate Judges Court, Tindivanam in MCOP.No.653/2010 dated 09.07.2014.

For Appellant : Mr.C.S.K.Sathish

For Respondent : Mr.M.P.Saravanan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Transport Corporation challenging the award dated 09.07.2014 passed by the Motor Accident Claims Tribunal (Additional Subordinate Judges Court, Tindivanam) in MCOP.No.653 of 2010.

2. Heard Mr.C.S.K.Sathish, learned counsel for the Appellant and Mr.M.P.Saravanan, learned counsel for the respondent.



3. The Appellant has challenged the impugned award questioning its liability as well as questioning the quantum of compensation awarded by the Tribunal to the respondent/claimant. The Tribunal under the impugned award has directed the Appellant Transport Corporation to pay the respondent/claimant a compensation of Rs.3,15,000/- together with interest and costs as detailed hereunder:

Heads	Award Amount (Rs.)
Pain and suffering	20,000/-
Transportation cost, Attender charges and damage to clothing and loss of nutrition	25,000/-
Disability Compensation	56,000/-
Medical bills	1,70,000/-
Loss of income	27,000/- (4500 x 6)
Future medical expenses	17,000/-
Total	3,15,000/-

4. Insofar as the first contention raised by the Appellant Transport Corporation that they are not liable for the cause of the accident is concerned, the same has been adequately dealt with by the Tribunal under the impugned award.

5. FIR (Ex.A1) has been registered only against the driver of the Appellant Transport Corporation. The case of the respondent/claimant as seen from the FIR as well as from the pleadings is that due to the rash and negligent driving by the driver of the bus owned by the Appellant Transport Corporation on 12.06.2010, the said bus dashed against him while he was waiting in the bus stand.

6. Before the Tribunal, the respondent/claimant has filed 23 documents which were marked as Ex.A1 to Ex.A23 and two witnesses were examined on his side namely, the respondent/claimant himself as PW1 and the Doctor who examined him as PW2. On the side of the Appellant Transport Corporation,



one witness was examined as RW1, but no document was filed.

7. No contra evidence has also been produced by the Appellant Transport Corporation before the Tribunal to disprove the contention of the respondent/claimant that only due to the fault of the driver of the bus, the accident had happened. The Tribunal after giving due consideration to the materials and evidence available on record has come to the right conclusion that the Appellant Transport Corporation is liable to compensate the claim of the respondent/claimant on account of the rash and negligent driving by the driver of their bus. Hence, the first contention of the Appellant Transport Corporation questioning their liability is rejected by this Court.

8. With regard to the quantum of compensation awarded by the Tribunal is concerned, the Tribunal has assessed the notional monthly income of the respondent/claimant as Rs.4,500/-, even though the respondent/claimant in his claim petition has pleaded that he was a salesman and an agriculturist, earning Rs.7,000/- per month at the time of the accident. The accident happened in the year 2010 and after giving due consideration to the year of the accident, this Court is of the considered view that the assessment of notional monthly income of the respondent/claimant at Rs.4,500/- by the Tribunal cannot be considered to be excessive as alleged by the Appellant Transport Corporation. Hence this court is of the considered view that the assessment of Rs.4,500/- as the notional monthly income of the respondent/claimant at the time of the accident is a correct assessment.

9. The Doctor PW2 has assessed the disability of the respondent/claimant at 28%. The respondent/claimant has sustained the following injuries: (a) Linear undisplaced fracture in bilateral temporal bone, (b) Injury on the left ear, (c) Injury on the right ear and (d) multiple injuries all over the body. The Tribunal has rightly accepted the disability certificate which was marked as Ex.A23 before the Tribunal and has assessed the disability of the respondent/claimant at 28%. The accident happened in the year 2010 and the Tribunal has rightly awarded a disability compensation of Rs.56,000/- to the respondent/claimant calculated at Rs.2,000/- per percentage of disability. The Tribunal has rightly awarded compensation under various heads namely Rs.25,000/- towards transportation costs, Attender



charges, damage to clothing, loss of nutrition, Rs.27,000/- towards loss of income to the respondent/claimant for a period of six months, Rs.70,000/- towards medical expenses based on Ex.A15, Ex.A17 and Ex.A18 and Rs.70,000/- towards future medical expenses, after giving due consideration to the nature of injuries sustained by the respondent/claimant. The overall compensation of Rs.3,15,000/- awarded by the Tribunal to the respondent/claimant cannot be considered to be excessive as alleged by the Appellant Transport Corporation. Hence, the second contention raised by the Appellant Transport Corporation is also rejected by this Court.

10. For the foregoing reasons, this Court is of the considered view that there is no merit in this appeal. Accordingly, this Appeal is dismissed. The Appellant Transport Corporation is directed to deposit the entire award amount along with interest and costs as assessed by the Tribunal after deducting the amount already deposited if any to the credit of MCOP.No.653 of 2010 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the amount lying to the credit of MCOP.No.653 of 2010 to the bank account of the respondent/claimant through RTGS within a period of one week thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
(Additional Subordinate Judges Court), Tindivanam

2.The Section Officer
V.R.Section, High Court of Madras.

C.M.A.No.1289 of 2016

SSN(CO)
SB(30/09/2021)