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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.M.A.NO.845 OF 2011

AND

M.P.NO.1 OF 2011

The Managing Director,
The Tamil Nadu State Transport
Corporation Ltd.,
Chennimalai Road, Erode - 1.

... Appellant/Respondent-2

Versus

1. Raj
S/o.Mnuniyan

... Respondent-1/Petitioner

2. Chandran
S/o.Sadaippan

... Respondent-2/Respondent-1

PRAYER:-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the award made in M.C.O.P.No.153 of 2009 dated 30.04.2010 on the file of the Motor Accident Claims Tribunal, Sub Judge, Perundurai.

For Appellant : M/s.B.Vijayalakshmi

For Respondent-1 : Mr.V.Kathirvelu

For Respondent-2 : Given up

J U D G M E N T

This appeal is laid as against the judgment and decree dated 30.04.2010 made in MCOP.No.153 of 2009 on the file of the Motor Accident Claims Tribunal, Sub Jude, Perundurai.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status before the Tribunal.



3. The case of the claimant is that on 19.03.2000, when the claimant was walking near Nallampatti to Nasianur road at Ravi Bakery, a bus was came from behind the claimant in a rash and negligent manner and hit against him and caused accident. Due to the said accident, he sustained fractures and grievous injuries. Thereafter, he was admitted in the hospital and had taken treatment as inpatient for four weeks. Hence the claimant filed a claim petition seeking compensation at Rs.3,10,000/-.

4. Resisting the same, the second respondent filed a counter stating that the respondent bus driver never drove the vehicle in a rash and negligence manner. The claimant was crossing the road in front of the parked bus and the driver of the bus noticing a person, hooted horn and at that time, he suddenly crossed the road in front of the parked another bus without noticing the oncoming bus and came to the middle of the road and hitting on the front side of the bus and fell down. Therefore, the second respondent is not held to be liable to pay any compensation as claimed by the claimant and sought for dismissal of the claim petition.

5. On the side of the claimant, he examined P.W.1 and P.W.2 and marked Ex.P.1 to Ex.P.13. On the side of the respondents, R.W.1 was examined and no exhibits were marked. On the basis of the evidence available on records and also considering the submission made by the learned counsel appearing on either side, the Tribunal found that the first respondent driver's negligence alone the accident was took place and awarded a sum of Rs.1,71,632/- as compensation payable by the respondents jointly or severally with interest at the rate of 7.5% per annum from the date of claim petition till the deposit of the award amount. Aggrieved by the same, the second respondent preferred the present appeal.

6. The learned counsel for the appellant raised the sole ground that the Tribunal should have adopted the multiplier method at 30% for the disability assessed by P.W.2 to the claimant.

7. The case of the injured : Due to the accident, the claimant sustained grievous injuries and multiple fractures in his chest, hip and left hand and also sustained injuries all over the body. Though, P.W.2-Doctor has not treated the injured claimant at the relevant point of time, he examined the injured one year after the date of accident and he himself admitted that the assessment of disability at 30%. However, the Tribunal reduced the assessment of disability from 30% to 15%, only for the reason that the assessment was made after one year from the date of accident and also PW.2-Doctor has not treated the injured and assessed the disability of the claimant.



8. On a perusal of the records shows that the claimant even at the time of claim petition he was suffering fracture on the chest, hip and left hand hip. The claimant is an agriculturist and he cannot be able to do the agricultural work. Therefore, the Tribunal rightly adopted the multiplier method and reduced the assessment of disability from 30% to 15%. Therefore, nothing warrant to interfere with the judgment and decree passed by the Tribunal by this Court.

9. In fine, the award dated 30.04.2010 passed by the Motor Accident Claims Tribunal, Sub Judge, Perundurai in M.C.O.P.No.153 of 2009 is hereby confirmed and the Civil Miscellaneous Appeal stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,
The Sub Judge,
Perundurai.

C.M.A.NO.845 OF 2011

PMK(CO)
PBS/23/11/2021