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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.3.2021

CORAM:

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

Civil Miscellaneous Appeal No.3276 & 3277 of 2013

M.P.No.1 + 1 of 2013

The Managing Director

Tamil Nadu State Transport Corporation Ltd.,

37, Mettupalayam road, Coimbatore.

... Appellant in both appeals/2nd Respondent

..Vs..

B.Champalal

... 1st Respondent in CMA 3276/2013 /
Petitioner in MCOP.No.2243/2012

C.Sangeetha

... 1st Respondent in CMA 3277/2013/
Petitioner in MCOP.No.2244/2012

C.Sundaraj

... 2nd Respondent/1st Respondent in
both O.Ps.

Both Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and decree dated 22.1.2013 made in M.C.O.P.No.2243 and 2244 of 2012 on the file of Special Subordinate Judge (Motor Accidents Claims Tribunal) Coimbatore.

For Appellant in : Mr.A.Sundaravadanam
both appeals

Respondents : Not ready to notice

COMMON JUDGMENT

The petitioners in the above O.Ps. are husband and wife met with an accident on 25.11.2008 at Trichy road, Coimbatore and sustained grievous injuries, have filed the claim petitions before the tribunal claiming compensation for the permanent



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disability sustained by the petitioners and the instant appeals are preferred by the Transport Corporation against the award passed by the tribunal. Therefore, both the appeals are heard together and disposed of by common judgment.

Brief facts of the claimants' case is as follows:

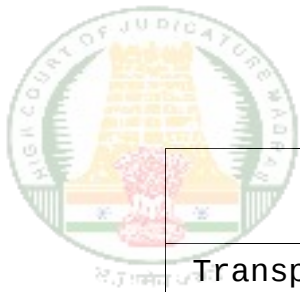
On 25.11.2008 at about 12.00 p.m., B.Champalal, petitioner in M.C.O.P.No.2243 of 2012 was going by two-wheeler bearing registration No.TN-37-AV-8240 along with his wife Sangeetha, petitioner in M.C.O.P.No.2244 of 2012 and child. By that time, the appellant Corporation bus bearing registration No.TN-33-2216 driven by its driver in a rash and negligent manner and hit against the petitioner's vehicle, thereby caused accident, resulting in both husband and wife sustained grievous injuries. The petitioners have filed claim petition before the tribunal claiming compensation of Rs.5,00,000/- and Rs.10,00,000/- respectively towards permanent disability suffered by the petitioners due to the accident.

2. On the side of the claimants, P.W.1 to 3 were examined and Ex.P-1 to P-19 were marked. On the side of the respondents, no witness was examined or any document marked.

3. Tribunal, based on the oral and documentary evidence adduced by both sides, has come to the conclusion that due to rash and negligent driving on the part of the second respondent herein, the accident occurred and awarded a sum of Rs.1,34,600/- to the petitioner in M.C.O.P.No.2243 of 2012 and Rs.10,42,350/- to the petitioner in M.C.O.P.No.2244 of 2012 as compensation along with interest at the rate of 7.5% per annum from the date of claim petition till realization, and held that the appellant Transport Corporation is liable to pay compensation to the claimants. The total compensation awarded by the tribunal under various heads are as follows:

Petitioner in M.C.O.P.No.2243 of 2012 :

Heads	Compensation awarded by the tribunal in Rs.
Partial Permanent disability Rs.3000 x 20%	60,000/-
Loss of income Rs.5000 x 6	30,000/-



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Heads	Compensation awarded by the tribunal in Rs.
Transport expenses	10,000/-
Extra Nourishment	10,000/-
Pain and sufferings	20,000/-
Medical Bills	4,600/-
Total	1,34,600/-

Petitioner in M.C.O.P.No.2244 of 2012 :

Heads	Compensation awarded by the tribunal in Rs.
Partial Permanent disability Rs.4500 x 12 x 80 x 17/100	7,34,400/-
Medical Bills	3,07,950/-
Total	10,42,350/-

4. Challenging the said award, Transport Corporation has filed the present appeals both against liability and the quantum of compensation awarded by the tribunal.

5. Heard the learned counsel appearing for the appellant/Transport Corporation and perused the materials available on record.

6. According to the learned counsel appearing for the appellant Corporation, there is no negligence on the part of the appellant/Transport Corporation, whereas the accident occurred only due to the petitioner riding his motorcycle with his wife and two children with controlled speed and hit the bus. Further, the Insurance Company was not impleaded as party in the claim petition. The tribunal erroneously awarded compensation to the claimants under various heads.

C.M.A.No.3276 of 2013 :

7. P.W.3 Dr.K.Gajendiran who examined the injuries sustained by petitioner and assessed 20% partial permanent disability and the petitioner furnished documents and the same were marked as Ex.P5, P6, P11, P12, P16, P17 & P18. Based on the assessment made by the Doctor that the petitioner sustained 20% partial permanent disability and the documents furnished



To

1.The Special Subordinate Judge (Motor Accidents Claims Tribunal) Coimbatore

Copy to

The Section Officer, VR Section, High Court, Madras.

+1CC to Mr.A.Sundaravadanam, Advocate, SR.No. 17370

Civil Miscellaneous Appeal No.3276 & 3277 of 2013
M.P.No.1 + 1 of 2013

EV(CO)

B.VC (06/09/2021)