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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.920 of 2021
and C.M.P.No.5251 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Division - III,
No.1, 2, Sheikpet Nadu Street,
Kanchipuram.

.. Appellant/Respondent

Vs.

V.Ellappan

.. Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 29.11.2019 made in M.C.O.P.No.78 of 2012, on the file of the Additional Sub Court, (Motor Accidents Claims Tribunal), Kanchipuram.

For Appellant : Mr.K.J.Sivakumar

For Respondent : Mr.M.Sivakumar
for M/s.C.Prabakaran

J U D G M E N T

(The matter is heard through "Video Conferencing/Hybrid mode")

This Civil Miscellaneous Appeal has been filed by the appellant-Transport Corporation challenging the quantum of compensation granted by the Tribunal in the award dated 29.11.2019 made in M.C.O.P.No.78 of 2012, on the file of the Additional Sub Court, (Motor Accidents Claims Tribunal), Kanchipuram.

2.The appellant is the respondent in M.C.O.P. No.78 of 2012, on the file of the Additional Sub Court, (Motor Accidents



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Claims Tribunal), Kanchipuram. The respondent/claimant filed the 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 29.08.2011.

3. According to the respondent, on the date of accident, when he was walking as a pedestrian inside O.V. Alagesan Bus Stand, Kanchipuram, following traffic rules and regulations, the driver of Bus bearing Registration No. TN-32-N-3128 owned by the appellant-Transport Corporation drove the vehicle in a rash and negligent manner and hit against the respondent and caused the accident. The front side tyre ran over the respondent's legs and the respondent sustained multiple grievous injuries. The accident occurred only due to rash and negligent driving by driver of the Bus and hence, filed the said claim petition claiming compensation against the appellant as owner of the Bus involved in the accident.

4. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by driver of the Bus owned by the appellant-Transport Corporation and directed the appellant to pay a sum of Rs.4,94,150/- as compensation to the respondent.

5. Questioning the quantum of compensation granted by the Tribunal in the award dated 29.11.2019 made in M.C.O.P.No.78 of 2012, the appellant - Transport Corporation has come out with the present appeal.

6. The learned counsel appearing for the appellant-Transport Corporation contended that the respondent did not file any material document to prove his age, avocation and income. In the absence of any material evidence, the Tribunal erred in fixing the monthly income of the respondent as Rs.6,000/-, which is excessive. In the absence of any material evidence to prove that the respondent suffered functional disability and lost his earning capacity, the Tribunal erred in fixing the disability of the respondent as 45% and adopting multiplier method for awarding compensation towards disability. In any event, the total compensation awarded by the Tribunal is excessive and prayed for setting aside the award of the Tribunal.



8. Heard the learned counsel appearing for the appellant-Transport Corporation as well as the respondent and perused the materials available on record.

10. In the result, this Civil Miscellaneous Appeal is dismissed and the amount awarded by the Tribunal at Rs.4,94,150/- together with interest at the rate of 7.5% per



annum from the date of petition till the date of deposit is confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount 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.78 of 2012. 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, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar (C0)

// True Copy //

Sub Assistant Registrar

gsa

To

1.The Additional Sub Court,
(Motor Accident Claims Tribunal),
Kanchipuram.

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

+1CC to Mr.C.Prabakaran, Advocate, SR.No. 17065

+1CC to Mr.K.J.Sivakumar, Advocate, SR.No. 16995

C.M.A.No.920 of 2021
and
C.M.P.No.5251 of 2021

CA(C0)
B.VC (21/09/2021)