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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.846 of 2021  
and C.M.P.No.4893 of 2021

The Managing Director,  
Tamil Nadu State Transport Corporation Limited,  
Salem Main Road, Bharathipuram,  
Dharmapuri District - 636 809. .. Appellant/Respondent

Vs.

Santhosh .. Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 19.11.2019 made in M.C.O.P.No.830 of 2017, on the file of the Special District Court, (Motor Accidents Claims Tribunal), Dharmapuri.

For Appellant : Mr.D.Venkatachalam

#### 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 19.11.2019 made in M.C.O.P.No.830 of 2017, on the file of the Special District Court, (Motor Accidents Claims Tribunal), Dharmapuri.

2.The appellant is the respondent in M.C.O.P. No.830 of 2017, on the file of the Special District Court, (Motor Accidents Claims Tribunal), Dharmapuri. The respondent/claimant filed the said claim petition, claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by him in the accident that took place on 07.06.2017.

3.According to the respondent, on the date of accident, when he was riding a Motorcycle bearing Registration No.TN-24-AQ-8071



along Papparapatti to Old Dharmapuri road, near Sabari Auto Diesel Works, the driver of the Bus bearing Registration No.TN-29-N-2202 owned by the appellant-Transport Corporation drove the vehicle from opposite direction in a rash and negligent manner and dashed against the Motorcycle driven by the respondent and caused the accident. In the accident, the respondent suffered grievous injuries all over the body. The accident occurred only due to rash and negligent driving by driver of the Bus and hence, he 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.11,21,280/- as compensation to the respondent.

5.Questioning the quantum of compensation granted by the Tribunal in the award dated 19.11.2019 made in M.C.O.P.No.830 of 2017, 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.7,500/-, which is excessive. The Tribunal erred in fixing the permanent disability suffered by the respondent as 51%, which is on the higher side. In the absence of any material evidence to prove that the respondent suffered functional disability and lost his earning capacity, the Tribunal erred in adopting multiplier method for awarding compensation towards disability. The amounts awarded by the Tribunal towards pain and suffering and loss of amenities are excessive. In any event, the total compensation awarded by the Tribunal is excessive and prayed for setting aside the award of the Tribunal.

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

8.It is the case of the respondent that in the accident, he suffered severe head injury, injuries over nose, left cheek and forehead and has taken treatment as in-patient from 08.06.2017 to 23.06.2017 at the Neuro Foundation Hospital, Salem. The respondent was referred to the Medical Board. The Medical Board, Dharmapuri, examined the appellant and certified that the appellant suffered 51% partial permanent disability, of which,



20% optical disability and 40% neuro disability. In the absence of any contra evidence by the appellant to disprove Ex.X1 - disability certificate, the Tribunal fixed the functional disability suffered by the respondent as 51%, which is in order. At the time of accident, the respondent was working in Pradeep Saloon, Bangalore. The Tribunal adopted multiplier method in awarding compensation towards disability on the ground that the respondent suffered weakness of right upper limbs, slurred speech, difficulty in walking and doing daily routine activities. The neuro disability at 40% will certainly impair his daily routine and with additional vision problem, the respondent will not be in a position to do any work, the disability will certainly cripple him and there will be loss of earning capacity. The reason given by the Tribunal for adopting multiplier method is in order. The respondent claimed that he was earning a sum of Rs.15,000/- per month working as a Hair Stylist. He examined P.W.2 - employer of the respondent and marked Ex.P5 - salary certificate to prove the same. In the absence of any document evidencing payment of salary, the Tribunal fixed a sum of Rs.7,000/- per month as notional income of the respondent. The accident is of the year 2017. Considering the year of accident and nature of work done by the respondent, the monthly income fixed by the Tribunal is not excessive. Considering the nature of injuries and period of treatment taken by the claimant, this court is of the view that the amounts awarded by the Tribunal under other heads are just and reasonable and there is no error in the award of the Tribunal warranting interference by this Court.

9. In the result, this Civil Miscellaneous Appeal is dismissed and the amount awarded by the Tribunal at Rs.11,21,280/- 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.830 of 2017. 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(CO)

//True Copy//

Sub Assistant Registrar



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To

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1.The Special District Court,  
(Motor Accident Claims Tribunal),  
Dharmapuri.

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

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.16985

C.M.A.No.846 of 2021  
and  
C.M.P.No.4893 of 2021

RR(CO)  
CB(14/09/2021)