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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. No.979 of 2021

The Managing Director,
Tamil Nadu State Transport
Corporation (Div II) Salem Limited,
Dharmapuri Region
Bharathipuram,
Dharmapuri.

..Appellant/Respondent

Vs.

P.M.Chenrayan

..Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.06.2013, made in M.C.O.P. No.618 of 2011, on the file of the Principal Sub Court, (Motor Accident Claims Tribunal), Krishnagiri.

For Appellant : Mr. D.Venkatachalam

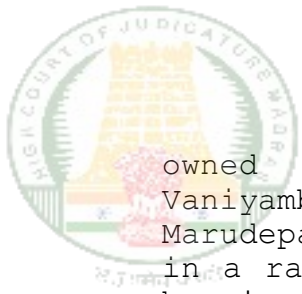
J U D G M E N T

(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 28.06.2013, made in M.C.O.P. No.618 of 2011, on the file of the Principal Sub Court, (Motor Accident Claims Tribunal), Krishnagiri.

2.The appellant is the respondent in M.C.O.P. No.618 of 2011, on the file of the Principal Sub Court, (Motor Accident Claims Tribunal), Krishnagiri. The respondent/claimant filed the said claim petition, claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 20.04.2000.

3.According to the respondent, on the date of accident, when he was traveling in the Bus bearing Registration No.TN-29-N-1647



owned by the appellant-Transport Corporation to go to Vaniyambadi, while proceeding near Orappam Village, at Marudepalli Koot Road, the driver of the said Bus drove the same in a rash and negligent manner and suddenly hit on a Motorcycle bearing Registration No.TN-29-P-5820 and then the driver of the Bus jumped out from the Bus. Due to the same, the Bus swerved and then dashed on the roadside mountain and capsized. In the accident, the respondent sustained severe injuries 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 belonging to the appellant-Transport Corporation and directed the appellant to pay a sum of Rs.1,20,000/- as compensation to the respondent.

5.Questioning the quantum of compensation granted by the Tribunal in the award dated 28.06.2013, made in M.C.O.P. No.618 of 2011, 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 failed to prove his age, avocation and income by any oral and documentary evidence. The Tribunal erred in fixing the disability of the respondent as 20% without proper proof and granted excessive compensation towards disability at the rate of Rs.5,500/- per percentage. The sum of Rs.10,000/- awarded towards pain and suffering is on the higher side. The total compensation awarded by the Tribunal is excessive and prayed for reducing the compensation granted by the Tribunal.

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

8.From the materials on record, it is seen that it is the contention of the respondent that in the accident, he sustained grievous injuries and has taken treatment at Government Hospital, Krishnagiri. P.W.2 - Doctor examined the respondent and certified that the respondent suffered 25% disability and issued Ex.A.3 - disability certificate to that effect. The appellant did not let in any evidence to disprove the evidence of P.W.2 - Doctor and disability certificate marked as Ex.P3. The Tribunal erroneously reduced the percentage of disability to 20% without giving any reasons. The Tribunal, by reducing disability to 20%, granted Rs.1,10,000/- for disability at the rate of Rs.5,500/- per percentage. The accident occurred in the year 2000. Considering the year of accident, the amount awarded



by the Tribunal towards disability at the rate of Rs.5,500/- per percentage for 20% disability is excessive. At the same time, the Tribunal failed to award any amount for attendant charges, loss of amenities, loss of income, extra nourishment and damages to clothes for the injuries sustained by the respondent and treatment taken. Further the sum of Rs.10,000/- awarded by the Tribunal towards pain and suffering is meagre. In view of the above, the compensation awarded excessively towards disability is not interfered with.

9. In the result, this Civil Miscellaneous Appeal is dismissed and the amount awarded by the Tribunal at Rs.1,20,000/- together with interest at the rate of 6% 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.618 of 2011. 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. No costs.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

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To

1. The Principal Subordinate Judge,
(Motor Accident Claims Tribunal),
Krishnagiri.

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

+1 CC to Mr.D. Venkatachalam, Advocate sr 18263.

C.M.A. No.979 of 2021

RK (CO)
SP(20/09/2021)