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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1175 of 2021
and C.M.P.No.5977 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Villupuram. .. Appellant/3rd Respondent

Vs.

1.Babu ...1st Respondent/1st Petitioner

2.N.K.Gunasekaran

3.The Divisional Manager,
The New India Assurance Company Limited,
Nehru Street, Puducherry. ..2 & 3 Respondents/
1 & 2 Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 17.04.2018 made in M.C.O.P. No.820 of 2010, on the file of the Principal Sub Court, (Motor Accidents Claims Tribunal), Tindivanam.

For Appellant : Mr.K.J.Sivakumar

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 17.04.2018 made in M.C.O.P. No.820 of 2010, on the file of the Principal Sub Court, (Motor Accidents Claims Tribunal), Tindivanam.



2.The appellant is the 3rd respondent in M.C.O.P.No.820 of 2010, on the file of the Principal Sub Court, (Motor Accidents Claims Tribunal), Tindivanam. The 1st respondent/claimant filed the said claim petition, claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 07.05.2010.

3.According to the 1st respondent, on the date of accident, when he was driving the Tipper Lorry bearing Registration No.TN-04-B-4478 owned by the 2nd respondent in Tindivanam to Pondy Main Road, near Panchavadi Temple, the driver of the Bus bearing Registration No.TN-32-N-3272 owned by the appellant-Transport Corporation drove the same from opposite direction in a rash and negligent manner and dashed against the Tipper Lorry and caused the accident. In the accident, the 1st respondent sustained multiple injuries. The accident occurred only due to rash and negligent driving by driver of the Bus. Hence, the 1st respondent filed the claim petition claiming compensation against the respondents 2 and 3 as owner and insurer of the Tipper Lorry and appellant as owner of the Bus involved in the accident respectively.

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.40,000/- as compensation to the 1st respondent.

5.Challenging the quantum of compensation granted by the Tribunal in the award dated 17.04.2018 made in M.C.O.P. No.820 of 2010, the appellant - Transport Corporation has come out with the present appeal.

6.The learned counsel appearing for the appellant/Transport Corporation contended that in the absence of any documents by the 1st respondent to prove his age, avocation and income, the monthly income of Rs.10,000/- fixed by the Tribunal and a sum of Rs.25,000/- granted towards pain and sufferings are excessive. 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 1st respondent that he was working as a Driver and was earning a sum of Rs.6,000/- per month at the time of accident. In the accident, he sustained multiple grievous injuries all over the body and has filed Ex.P2 - O.P chit to prove the same. Except stating that the 1st respondent has sustained grievous injuries in the accident, the 1st respondent has not appeared before the Medical Board to assess the disability suffered in the accident. In the absence of any evidence, the Tribunal considering Exs.P3 and P7, granted a sum of Rs.25,000/- towards pain and sufferings and medical expenses, Rs.10,000/- towards loss of income during treatment period and Rs.5,000/- towards extra nourishment. Considering the materials on record, the total compensation awarded by the Tribunal under different heads are not excessive, warranting interference by this Court.

9.In the result, this Civil Miscellaneous Appeal is dismissed and the amount awarded by the Tribunal at Rs.40,000/- 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.820 of 2010. On such deposit, the 1st 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

// True Copy //

Sub Assistant Registrar

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To

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



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

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+lcc to Mr.K.J.Sivakumar, Advocate SR.No.19477

C.M.A.No.1175 of 2021
and
C.M.P.No.5977 of 2021

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