



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.2309 of 2021
and CMP.No.12865 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation,
(VPM) Limited
No.3/137, Salamedu Vazhutharvedu,
Villupuram 605 602
Tamil Nadu.

... Appellant/Respondent

Vs.

M.Madanagopal

... Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 24.07.2013 made in M.C.O.P.No.93 of 2009 on the file of the Motor Accidents Claims Tribunal, Sub Judge, Tambaram.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

The matter is heard through "Video Conferencing".

This appeal has been filed by the Transport Corporation challenging the Award dated 24.07.2013 passed by the Motor Accident Claims Tribunal, Sub Judge, Tambaram in M.C.O.P.No.93 of 2009, directing the appellant- Transport Corporation to pay the Claimant a sum of Rs.1,77,000/- as compensation for the injuries sustained by him, as a result of an accident caused by the bus driver belonging to the appellant/Transport Corporation.

2. According to the Claimant, he sustained injuries as a result of an accident which occurred on 28.02.2008 caused by a bus bearing Registration No.TN-32-N-2159 owned by the appellant-Transport Corporation. The Claimant sustained fracture in the left leg, wrist bone and left foot and he was treated at Parvathy Ortho Hospital Chrompet, Chennai.

3. Before the Tribunal, the Respondent/Claimant claimed a sum of Rs.3,03,000/- as compensation for the injuries sustained



by him. In support of his claim, the Claimant marked Exs.P1 to P9 before the Tribunal and P.Ws.1 & 2 were examined as witnesses. On the side of the Appellant/Transport Corporation, neither witness nor exhibits were marked.

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4. On consideration of the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.1,77,000/- as compensation to the Respondent/Claimant.

5. The learned counsel for the appellant-Transport Corporation submitted that the Tribunal has erred in taking the permanent disability of the petitioner at 35%, which is on the higher side. The total compensation awarded by the Tribunal are excessive and prayed for setting aside the award passed by the Tribunal.

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

7. From the materials available on record, it is seen that it is the case of the respondent that in the accident he sustained multiple fracture in left hand bone near wrist and left leg wrist bone, in addition to sustaining multiple grievous injuries all over the body. To prove the nature of injuries and disability suffered by him, the respondent examined himself as P.W.1 and examined Dr.Muthukumar as P.W.2, who examined the respondent and certified that respondent suffered 35% disability and issued a disability certificate (Ex.P9) to that effect. However, the appellant has not examined any Doctor to disprove the evidence of P.W.2/Doctor and Ex.P9/disability certificate. In the absence of any contra evidence on behalf of the appellant to the evidence of P.W.2/Doctor and Ex.P9/disability certificate, the Tribunal, considering the evidence of P.W.2/Doctor and Ex.P9/disability certificate, awarded a sum of Rs.70,000/- for 35% disability and the loss of earning power. The accident is of the year 2008 and the compensation awarded by the Tribunal towards disability is not excessive. The Tribunal, after considering Ex.P4 & Ex.P.7 awarded a sum of Rs.24,000/- towards medical expenses and Rs.20,000/- towards future loss of earning power and the same are not excessive. After the accident, the respondent has taken treatment as inpatient from 28.02.2008 to 01.03.2007 in a Private Hospital. At the time of accident, the respondent was aged 58 years working as a Road Inspector at National Highways - City Road and was earning a sum of Rs.17,000/- per month. To prove the same the petitioner has not produced any salary certificate and also admitted in his cross examination that he has not produced the salary



certificate and he has not been doing any work after retirement. Considering the nature of injuries, disability and period of treatment taken by the respondent, shown in Ex.P2, Ex.P.3, Ex.P.4 & Ex.P.6 he would not have attended his work at least for a period of five months. Hence the Tribunal has fixed the salary of the respondent as Rs.9,000/- and fixed loss of earning at Rs.45,000/-. This Court is of the view that the amounts awarded by the Tribunal under other heads are not excessive. The Tribunal considering the entire materials on record, has awarded a sum of Rs.1,77,000/- as compensation to the respondent, which is not excessive warranting interference by this Court.

8. In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.1,77,000/- awarded by the Tribunal as compensation to the respondent, along with interest and costs is confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.93 of 2009 on the file of the Motor Accidents Claims Tribunal, Sub Judge, Tambaram. On such deposit, the respondent is permitted to withdraw the award amount fixed by the Tribunal along with proportionate interest and costs after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. Consequently the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS-IX)

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Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
Sub Court, Tambaram.

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

C.M.A.No.2309 of 2021

JPL(CO)
GN(14/03/2022)