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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2021

CORAM:

THE HON'BLE Mr. JUSTICE D.KRISHNAKUMAR

CMA No.499 of 2010

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
No.12, Ramakrishna Road,
Salem- 636007

... Appellant/Respondent

..VS..

Santhamoorthy
S/o. Subramani

... Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 07.09.2009 made in M.C.O.P.No.3152 of 2008, on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Cuddalore.

For Appellant : Mr. C.S.K.Sathish
For Respondent : Notice unserved

J U D G M E N T

Dissatisfied with the judgment and decree, dated 07.09.2009, passed by the tribunal awarding compensation of Rs.3,05,000/- along with interest at the rate of 7.5% per annum, the Appellant/ Insurance Company is before this Court to set aside the judgment and decree by the tribunal.

2. It is the case of the claimant/respondent herein that on 08.11.2008 at about 3.30 pm when the claimant while driving his Autorickshaw bearing Reg.No.TN31-D-8832 from Panruti to Thirunavalur and while going in front of Annai Therasa Engineering College at Thirunavalur on the extreme left of the road, at the time, the respondent/appellant's herein bus bearing Reg.No. TN30-N-0137 proceeding in the opposite direction, driven by its driver in a rash and negligent manner and dashed against the claimant's auto rickshaw. Due to which, the claimant sustained grievous multiple injuries all over the body. The



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petitioner is still undergoing medical treatment for the multiple injuries sustained by him, hence he filed a claim petition against the transport corporation/appellant herein, claiming a sum of Rs.10,00,000/- as compensation.

3. The tribunal after analyzing both oral and documentary evidences, has fixed the negligence on the driver of the transport corporation bus directed them to pay a sum of Rs.1,30,500/- as compensation along with interest at the rate of 7.5% p.a from the date of petition till realization. The compensation awarded by the tribunal under various heads are as follows;

Heads	Amount in Rs.
Disability (40 x 1000)	40,000
Loss of income during treatment period	10,000
Pain and suffering	25,000
Nutritious Food	7,500
Attendar's Charges	7,500
Shock and Mental Agony	7,500
Loss of amenities	7,500
Medical Expenses	7,500
Trasnport Expenses	18,000
Total	1,30,500/-

4. The learned counsel appearing for the appellant/Transport Corporation has submitted that the tribunal has erroneously passed the award without considering the relevant materials available on record. The compensation granted at Rs.40,000/- for disability assessed at 40% for left clavicle fracture is very excessive and the sum awarded under other heads are also unsustainable and requires interference by this Court.

5. Heard the learned counsel appearing for the appellant/ Transport Corporation. Notice unserved to the sole respondent, perused the materials available on record.

6. Before the Tribunal, two witnesses P.W.1 & P.W.2 were examined and Exhibits P1 to P8 were marked on the side of the



claimant/respondent herein, whereas R.W.1 was examined and no documents were marked on the side of the respondent/appellant herein.

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7. A perusal of Ex.P7 issued by the doctor/PW2 after examination of Ex.P3/Accident Register and Ex.P4/C.T.Scan report would clearly show that the due to the said accident, the claimant's left shoulder clavicle bone was broken and malunited and there is a loss of muscles in the left should and the movement of the left shoulder was also restricted. After examining all these aspects, the doctor has issued permanent disability certificate at 40%. Since the disabilities assessed by the doctor are very much proved, this Court does not want to interfere with the disability assessed by the doctor/PW2. The tribunal has also rightly confirmed the said disability and fixed a sum of Rs.1000/- per percentage and awarded Rs.40,000/- under the head disability. The said compensation is reasonable and proper, this Court confirms the same.

8. Insofar as the compensation awarded under other heads are concerned, the tribunal by considering the age of the claimant who was 24 years at the time of the accident and also a driver of the autorickshaw by avocation, he would have earned not less than a sum of Rs.3000/- per month, hence for the treatment period of three months, the sum awarded by the tribunal at Rs.10,000/- under the head Loss earning during treatment period is fair and reasonable. The claimant has marked Ex.P5/Trip Sheet for Rs.18,000/-, hence, the said amount awarded by the tribunal under head Transport Expenses is also proper. In total, the compensation awarded by the tribunal under various heads is based on the evidence and documents, therefore this Court finds no reason to interfere with the award passed by the tribunal. Though the appellant/Transport Corporation has not disputed the negligence and liability, but failed to disprove their contentions regarding disability and injuries by way of documents and evidence. In view of the same, the appeal is liable to be dismissed as devoid of merits.

9. In the result, this Civil Miscellaneous Appeal preferred by the appellant/transport corporation is dismissed and the compensation awarded by the Tribunal at Rs.1,30,500/- 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 entire award amount along with interest and costs, less the amount already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent/claimant is permitted to withdraw the award amount along with interest fixed by the Tribunal, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

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To

1. The Chief Judicial Magistrate,
(Motor Accidents Claims Tribunal)
Cuddalore.
2. The Section Officer,
VR Section,
High Court, Madras.

CMA.No.499 of 2010

VG II(CO)
B.VC (20/09/2021)