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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2909 of 2013

and

M.P.No.1 of 2013

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Kumbakonam Division,
Kumbakonam.

.. Appellant / Respondent

Vs.

M.Palaniappan

.. Respondent / Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.08.2011 made in M.C.O.P.No.2389 of 2007 on the file of Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Mr.L.Ramanathan for
Mr.D.Venkatachalam

For Respondent : Mr.K.Varadhakamaraj

J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation against the award dated 01.08.2011 made in M.C.O.P.No.2389 of 2007 on the file of Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

2.Heard the learned counsel appearing for the appellant, who is appearing before this Court physically as well as the learned counsel appearing for the respondent through Video-conferencing/Hybrid mode and perused the entire materials available on record.



3.The appellant is the respondent in M.C.O.P.No.2389 of 2007 on the file of Motor Accident Claims Tribunal, III Small Causes Court, Chennai. The respondent filed the said M.C.O.P claiming a sum of Rs.6,00,000/- as compensation for the injuries sustained by him in the accident that took place on 17.07.2006. According to the respondent, the accident has occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant. The appellant filed counter statement and denied the same. Before the Tribunal, the respondent examined himself as P.W.1, Dr.K.J.Mathiazhagan was examined as P.W.2 and marked 17 documents as Exs.P1 to P17. On the side of the appellant/Transport Corporation, the driver of the bus was examined as R.W.1. The appellant/Transport Corporation did not mark any document. The Tribunal considering the pleadings, oral and documentary evidence held that the accident has occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation, the respondent has contributed to 25% negligence, fixed 75 : 25 negligence on the part of the driver of the bus belonging to the appellant/Transport Corporation as well as the respondent respectively, awarded a sum of Rs.4,09,150/- as compensation and directed the appellant/Transport Corporation to pay a sum of Rs.3,06,865/- being 75% of the compensation to the respondent.

4.Challenging the said award of the Tribunal, the appellant/Transport Corporation has come out with the present appeal.

5.From the materials available on record, it is seen that the respondent filed C.M.A.No.1211 of 2012 for setting aside 25% negligence fixed on the respondent as well as for enhancement of compensation. This Court by the judgment dated 29.04.2019 made in C.M.A.No.1211 of 2012, held that the accident has occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation, there is no negligence on the part of the respondent and set aside the portion of award fixing 25% negligence on the respondent. This Court considering the materials, enhanced compensation awarded by the Tribunal from 3,06,865/- to Rs.4,64,202/- and granted permission to the respondent to withdraw the entire amount as compensation. The appellant/Transport Corporation has not challenged the said judgment passed by this Court and the same has become final.

6.In view of the above, the present Civil Miscellaneous Appeal filed by the Transport Corporation is without merits and



accordingly, it is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

The III Judge,
The Motor Accidents Claims Tribunal,
Small Causes Court, Chennai.

Copy to

The Section Officer
V.R.Section
High Court, Chennai.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.59306

C.M.A.No.2909 of 2013
and
M.P.No.1 of 2013

PP[co]
NSK 11/02/2022