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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2021

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THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.M.A.NO.414 OF 2014

AND

M.P.NO.1 OF 2014

The Managing Director,
Tamil Nadu State Transport
Corporation Limited, Villupuram
Division II Ltd.,
Rangapuram, Vellore.

... Appellant/Respondent

-VS-

Chitrarasu

... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Vellore Made in M.C.O.P.No.362 of 2012 dated 10.10.2013.

For Appellant : Mr.C.S.K.Sathish

For Respondent : Mr.M.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Vellore Made in M.C.O.P.No.362 of 2012 dated 10.10.2013.



2. For the sake of convenience, the parties are referred to hereunder according to their litigative status before the Tribunal.

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3. The case of the claimant is that on 26.05.2012, when the claimant was travelled in the bus owned by the respondent, the driver of the respondent's bus drove the bus in a rash and negligent manner and dashed against the bus which was stopped in the bus stop. Due to which, the claimant sustained injuries in his face and therefore, his teeth was broken and sustained injuries all over his body. Immediately, he was taken to Nalam Hospital at Vellore. His disability was assessed at 35%. Hence, the claim petition.

4. Resisting the same, the respondent filed the counter stating that only because the bus was parked on the road, the accident took place and the respondent is not liable to pay any compensation for the injuries sustained by the claimant.

5. On the side of the claimant, P.W.1 and P.W.2 were examined and Exs.P1 to P5 were marked. On the side of the respondent, no one was examined and no exhibits were marked. On perusal of the evidence available on records and also considering the submission made by the learned counsel appearing on either side, the Tribunal found that a sum of Rs.1,25,082/- (Rupees One Lakh Twenty Five Thousand and Eighty Two only) as compensation payable by the respondent. Aggrieved by the same, the appellant filed the present Civil Miscellaneous Appeal.

6. The learned counsel appearing for the respondent raised the ground that the claimant sustained injuries on his face. Whereas, the Doctor assessed the disability at 35% is permanent disability. It is only a partial disability and due to the said disability, no loss caused to the claimant.

7. Heard Mr.C.S.K.Sathish, learned counsel appearing for the appellant and Mr.M.Sivakumar, learned counsel appearing for the respondent.

8. On 26.05.2012, the claimant was travelled in the bus belongs to the respondent. The driver of the bus was driving the bus in a rash and negligent manner and dashed against the bus which was stopped in the bus stop. Therefore, the claimant



sustained injuries on his face and also his two teeth were broken and injuries all over his entire body. Hence, he was taken to Nalam Hospital, Vellore to undergone surgery.

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9. The Doctor, who was examined as P.W.2, deposed that the claimant received disability certificate and the same was marked as Ex.P5, it revealed that Jaw Malunion of Fracture of Mandible with a step Deformity causing Defective Alignment of teeth. Due to the said injury, the claimant cannot bite and chew hard eatables and Non-vegetarian foods. Therefore, P.W.2 has rightly assessed 35% disability. Even though the Tribunal had taken into account only 30% of disability and awarded proper compensation, this Court finds no infirmity or irregularity in the order passed by the Court below.

10. In the result, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

1. The Chief Judicial Magistrate Court,
Motor Accidents Claims Tribunal,
Vellore.

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

+1cc to Mr.M.Sivakumar, Advocate, S.R.No.24353

C.M.A.No.414 of 2014
and M.P.No.1 of 2014

JPL(CO)
RLP(09/11/2021)