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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CMA(MD).No.728 of 2021

and MP(MD).No.6657 of 2021

The Managing Director,
Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Bye Pass Road, Madurai.

...Appellant/Respondent

Vs.

K.Gandhi

... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order dated 11.02.2020 passed in M.C.O.P.No.226 of 2017 on the file of the Motor Accident claims Tribunal(Chief Judicial Magistrate Court), Thoothukudi.

For Appellant :Mr.K.Sudalaiyandi

For Respondent :No Appearance

J U D G M E N T

The Tamil Nadu State Transport Corporation, the respondent in MCOP.No.226 of 2017 on the file of the Motor Accidents Claims Tribunal/ Chief Judicial Magistrate Court, Thoothukudi has filed the present appeal.

2. The case of the claimant is as follows:

On 01.11.2016, the claimant was standing opposite to Kali Work Shop along Tuticorin- Tiruchendur Road. At about 09.45 am, a bus bearing Registration No.TN 58 N 2842 hit him, as a result of which, the claimant fell down and sustained injuries all over his body. According to the claimant, the rash and negligent driving on the part of the driver of the bus belonging to the Transport Corporation was the cause of the accident and hence the Transport Corporation is liable to pay compensation to him.

3. The learned Chief Judicial Magistrate, Motor Accident Claims Tribunal, Thoothukudi after analysing the evidence on record, awarded a compensation of Rs.11,73,000/- together with interest at the rate of 7.5% per annum to the claimant and directed the Transport Corporation to pay the same. Aggrieved over the order passed by the Tribunal, claimant has filed the present appeal.



4. Heard Mr.K.Sudalaiyandi, learned counsel appearing for the appellant. No appearance on behalf of the respondent.

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5. The learned counsel for the appellant submitted that the Tribunal was wrong in fixing negligence on the part of the driver of the Transport Corporation bus. The respondent / claimant had crossed the road in a drunken mood, without following the traffic rules and regulations and invited the accident. The claimant/respondent did not adduce any evidence to show his actual income and hence, the Tribunal erred in fixing an exorbitant amount of Rs.7,500/- as his monthly income. He therefore prayed for reducing the compensation awarded by the Tribunal.

6. A perusal of the records shows that the appellant/Transport Corporation did not adduce any evidence to prove that the accident has occurred only due to the negligence on the part of the claimant/respondent. Further, no evidence was adduced to prove that the claimant/respondent was in a drunken mood at the time of accident. The Tribunal also considered this fact and fixed the negligence on the part of the driver of the Transport Corporation bus and the same is hereby confirmed. The respondent did not adduce any evidence to prove his income. The accident is of the year 2016 and the respondent/claimant has been working as Security. Hence, the notional monthly income fixed by the Tribunal at Rs.7,500/- is reasonable. Due to the accident, respondent/claimant has lost his left leg. Since he has been working as a security, he would definitely find it difficult to continue his job and therefore, considering the claimant's future, the Tribunal has awarded a reasonable amount for disability at a sum of Rs.10,53,000/-. The other heads awarded by the Tribunal are also reasonable. Hence, I do find any reason to interfere with the award passed by the Tribunal.

7. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

(ii) The order passed by the Tribunal is confirmed.

(iii) The present appellant / Transport Corporation is directed to deposit the compensation awarded by the Tribunal i.e., Rs.11,73,000/- (less the amount already deposited, if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.226 of 2017 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Thoothukudi, within a period of four weeks from the date of receipt of a copy of this order.



(iv) On such deposit being made, the respondent / claimant is at liberty to withdraw the same after following due process of law.

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Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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TO
The Chief Judicial Magistrate,
The Motor Accident Claims Tribunal,
Thoothududi.

COPY TO:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.K. SUDALAIYANDI, Advocate (SR-34207[F] dated
11/11/2021)

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