



C.M.A.No.1193 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.1193 of 2013

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Cross Obj.No.32 of 2020

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M.P.No.1 of 2013

C.M.A.No.1193 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram,
Kanchipuram.

...Appellant

Vs

Ravikumar

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree dated



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15.09.2012 made in M.C.O.P.No.249 of 2010 on the file of the Motor
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Accident Claims Tribunal, V Small Causes Court, Chennai.

For Appellant : Mr.S.S.Santhosakumar

For Respondent : Mrs.A.Subadra

Cross Obj.No.32 of 2020

Ravikumar

...Cross Objector

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram,
Kanchipuram Region,
Kanchipuram District.

... Respondent

Prayer: Cross Objection is filed under Order 41 Rules 22 of CPC against the award 15.09.2012 made in M.C.O.P.No.249 of 2010 on the file of the Motor Accident Claims Tribunal, V Small Causes Court, Chennai.



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For Cross Objector : Mrs.A.Subadra
For Respondent : Mr.S.S.Santhosakumar

JUDGEMENT

The above appeal and the cross objection arise against the award passed by the Motor Accident Claims Tribunal, V Small Causes Court, Chennai, in M.C.O.P.No.249 of 2010. The facts are briefly stated herein below and the parties are referred to as the petitioner and the respondent as before the Tribunal.

2. The petitioner had filed the above petition seeking compensation of a sum of Rs.1,00,000/- for the injuries sustained by him in a road accident on 24.12.2009. The petitioner would submit that he is owning a Cycle shop and he was earning a daily income of a sum of Rs.10,000/- per day and that he was aged about 42 years.

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3. It is the case of the petitioner that on the said date, he was travelling in the respondent's bus bearing TN 32 N 2084. Since the bus was driven in a rash and negligent manner, it dashed against the another bus travelling in the same direction, as a result of which the petitioner had sustained multiple grievous injuries all over the body. Therefore, the petitioner has come forward with the claim petition.

4. The respondent had filed a counter inter alia denying the contentions raised by the petitioner and contending that their vehicle was not at fault and that the injuries was not as contended by the petitioner and that it was only simple injuries that the passengers had sustained.

5. The Tribunal below on considering the evidence on record held that the driver of the respondent's corporation was negligent,



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which resulted in the accident. Thereafter, taking into consideration Ex.P.13 and Ex.P.14, the Tribunal below had come to the conclusion that on account of the road accident there is a gradual loss of vision but however, the learned Judge also took into account the fact that in the discharge summary the petitioner was not referred to the Ophthalmologist. It is only three years after the accident that the petitioner had approached Ophthalmologist who had stated that he had suffered diminishing vision by reason of the accident.

6. The Doctor who had issued the discharge certificate was examined as P.W.9 and he assessed his disability at 20%. The said Doctor had assessed disability for the Eyes, fracture to the left clavicle, skull and head injury and arrived at a total disability of 30%. Admittedly, the said Doctor is not an ophthalmologist.

7. Ultimately, the Tribunal has granted a compensation of a sum



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of Rs.2,76,500/-. Citing the same to be on the higher side, the respondent transport corporation has filed the above appeal and contending that the compensation is very low, the petitioner has filed the cross objection.

8. Heard both the learned counsels and perused the records.

9. The Tribunal below has failed to appreciate the fact that the loss of vision has not been referred to in the original discharge summary in the year 2009. It is only thereafter that the petitioner has suffered the loss of vision. That apart, the petitioner has not been able to establish the fact that on account of the injuries he has sustained any restriction in his day to day activities or loss of earning capacity.

10. Therefore, the award granted by the Tribunal below appears to be fair and reasonable. The Transport Corporation has not been able



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to state as to how the quantum of compensation is on the higher side.

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11. The Transport Corporation is directed to deposit the 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 Judgement, to the credit of M.C.O.P.No.249 of 2010. On such deposit, the petitioner is permitted to withdraw the award amount, after adjusting the amount, if any, already withdrawn, by filing necessary application before the Tribunal. The petitioner shall show proof of payment of the Court fees for the award amount and only on such proof he shall be permitted to withdraw the amounts so deposited.

12. In the result, both the appeal and the cross objection stand dismissed. Consequently, connected Miscellaneous Petition is closed.

No costs.

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Index : Yes/No

Speaking order/non-speaking order

To,

The Motor Accident Claims Tribunal,
V Small Causes Court,
Chennai



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P.T.ASHA, J.,

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