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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2022

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THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

C.M.A.No.1619 of 2009

and

M.P.No.1 of 2009

The Managing Director,
M/s.Tamilnadu State Transport Corporation,
Division-4, Palani division,
Madurai.

...Appellant

Vs

1. J.Thomas
S/oP.Joseph
2. K.Krishnakumar,
S/o.Kalimuthu
3. D.Robert,
S/o.Thomas
4. Royal Sundaram Alliance Insurance Company Ltd.,
Divisional Office No.4 A,
4th Floor, Thirumalai Towers,
Door No.723, Avinachi Road, Coimbatore-18.
5. P.Sethuram
Driver, TNSTC, division - 4,
Madurai.
[R-5 Driver given up]

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Decree and Judgment dated 20.11.2006 made in M.C.O.P.No.1490 of 2005, on the file of the Motor Accidents Claims Tribunal and Sub Court, Coimbatore and to set aside the same.

For Appellant : Mr.D.Raghu

For R1 and R3 : Mr.A.Sivaji



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JUDGMENT

The appellant, Tamilnadu State Transport Corporation has filed this appeal challenging the negligence and quantum of compensation in the Award dated 20.11.2006.

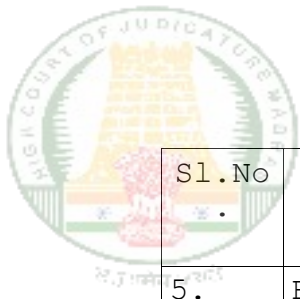
2. The first respondent herein is the injured claimant. He filed MCOP.No.1490 of 2005 claiming a sum of Rs.4,00,000/- for the injuries he sustained in the accident that occurred on 11.05.2005. As per the averments in the claim petition, on 11.05.2005, when the claimant was travelling in a Honda Santro car bearing Registration No.TN-38-S3848, a Government bus bearing Registration No.TN 57 N 1100 belonging to the fifth respondent and driven by the fourth respondent herein, came in a rash and negligent manner in the opposite direction and hit the car; as a result of which the petitioner, who was travelling in the car, sustained grievous injuries.

3. Before the Tribunal, the claimants and the Insurance Company/R-4 let in evidence, both oral and documentary. The driver of the bus/the fifth respondent herein has also been examined as D.W.2 and he has not filed any documentary evidence. After going through the entire evidence, the Tribunal based on the evidence of P.W.2 and the contents of Ex.A.1 copy of FIR and Ex.P.2 Final Report filed in the above case, the Tribunal has held that the accident took place due to the rash and negligent driving of the driver of the car bearing Registration No.TN-38-S3848 and the Government bus bearing Registration No.TN 57 N 1100 belonging to the appellant.

4. The above finding is based on the evidence and this Court is not inclined to interfere with the same. Accordingly, the finding in respect of negligence is confirmed.

5. Insofar as the injuries sustained by the first respondent/claimant is concerned, the Tribunal has taken into account Ex.A.6-Wound certificate and Ex.A.10 X ray and Ex.A.11 X ray report and came to the conclusion that the first respondent/claimant sustained grievous injuries and the Tribunal awarded the compensation under following heads:-

Sl.No .	Heads under which compensation grated by the Tribunal	Amount of compensation granted in Rs.
1.	Loss of income	Rs.5,000/-
2.	For Transportation	Rs. 500/-
3.	For nourishment	Rs. 1,000/-
4.	For medical expenses	Rs.88,000/-



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Sl.No	Heads under which compensation grated by the Tribunal	Amount of compensation granted in Rs.
5.	For injuries	Rs.10,000/-
6.	For Pain and sufferings	Rs.10,000/-
	Total	Rs.1,14,500/-

6. The compensation awarded by the Tribunal cannot be held to be either excessive or arbitrary. But it is a just compensation and in such view of the matter, this Court finds no infirmity in the Award of the Tribunal, warranting any interference and accordingly, the Award passed by the Tribunal is confirmed.

7. By order dated 06.07.2013, this Court while ordering interim stay of operation of the award, directed the appellant-Tamilnadu State Transport Corporation to deposit 50% of the Award amount with accrued interest. Since this Court confirmed the Award passed by the Tribunal, the appellant is directed to deposit the balance Award amount with accrued interest and costs. On such deposit, the 1st respondent is permitted to withdraw the amount lying in the deposit along with interest and costs without filing formal petition before the Tribunal.

8. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal and Sub Court,
Coimbatore.
2. The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.D.Raghu, Advocate, S.R.No.15686
+1cc to Mr.A.Sivaji, Advocate, S.R.No.15993

C.M.A.No.1619 of 2009
and M.P.No.1 of 2009

JPL[co]
NSK/10/06/2022