



C.M.A.No.1977 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22/4/2022

C O R A M

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

C.M.A.No.1977 of 2012

a n d

M.P.No.1 of 2012

The Managing Director
Tamil Nadu State Transport Corporation Ltd
Vellore.

...

Appellant

Vs

1. Nagappan

2. The Managing Director
Tamil Nadu State Transport Corporation Ltd
Villupuram.

...

Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 01.06.2011, made in M.C.O.P.No.512 of 2008, passed by the Motor Vehicles Accident Claims Tribunal and Additional Sub-Judge, Tiruvannamalai.

For appellant

...

Mr.C.Saravanakumar

For respondents

...

No appearance for R.1.
Mr.C.S.K.Sathish for R.2



C.M.A.No.1977 of 2012

J U D G M E N T

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The Tamil Nadu State Transport Corporation, Vellore, has preferred this Civil Miscellaneous Appeal, challenging the quantum of compensation awarded by the Motor Vehicles Accident Claims Tribunal and Additional Sub-Judge, Tiruvannamalai, in M.C.O.P.No.512 of 2008 dated 1/6/2011.

2. Brief facts which are necessary for the disposal of this Civil Miscellaneous Appeal is as follows:-

On 10.11.2004, when the 1st respondent/ driver took the bus bearing Registration No.TN32N-1552 of the 2nd respondent Corporation from Madurampattu to Tiruvannamalai, near Nadazaganandal road, a driver viz., Balu, of the bus bearing Registration No.TN23N-1156 of the appellant Corporation, came in an opposite direction, dashed against the driver of the bus, bearing Registration No.TN32N-1552, causing grievous injuries to the 1st respondent/driver. The driver sustained fracture on his leg and was admitted in Government Hospital, Tiruvannamalai, for treatment. A case was registered in Crime No.614 of 2004 under Sections 279, 337 and 338 of the Indian Penal Code. The first respondent has filed M.C.O.P.No.512 of 2008 claiming compensation of



C.M.A.No.1977 of 2012

Rs.5,00,000/- . The learned Tribunal, vide order, dated 22.06.2011, awarded a sum of Rs.89,000/- together with interest at 7.5% by fixing 35% liability. Being aggrieved by the same, the appellant Transport Corporation has come forward with this appeal.

3. The learned trial Judge, taking into consideration the evidence of P.Ws.1 and 4, found that the driver of the vehicle bearing Registration No.TN23N-1156 drove in a rash and negligent manner and fixed the liability on the appellant Transport Corporation .

4. Heard Mr.C.Saravanakumar, learned counsel for the appellant and Mr.C.S.K.Sathish learned counsel for the second respondent. There is no representation on behalf of the first respondent.

5. The learned counsel appearing for the appellant submitted that bone fracture cannot be considered as a lifelong disability and the Tribunal, fixing the disability at 35% is not in accordance with the injuries sustained by the first respondent. He would further submit that taking advantage of the award passed by the Tribunal, the 1st respondent is taking steps to execute the award by filing execution petition.

6. The factum of accident is not disputed. Only the quantum of



C.M.A.No.1977 of 2012

compensation is in dispute. As regards the quantum of compensation is concerned,

the 1st respondent has sustained fracture of two bones in the right leg and the same has not joined properly and due to the same, he was not able to sit properly.

Therefore P.W.2 doctor has assessed the disability as 35% and given disability certificate Ex.P5 and to substantiate the same Ex.P6 x-ray report was also filed.

On perusal of the said report and the x-ray and on examination of evidence of the doctor, the Tribunal has rightly fixed the disability at 35%. To deny the same, the appellant has not questioned the doctor with regard to disability certificate issued.

Therefore, this Court is of the opinion that the disability fixed by the Tribunal does not warrant any interference and thus, the award granted by the Tribunal cannot be said to be excessive.

9. In the above circumstances, the award passed by the Tribunal is confirmed and this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

22.04.2022

Index : Yes/No

Internet : Yes/No

mvs/vsi



C.M.A.No.1977 of 2012

To

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The Motor Vehicles Accident Claims
Tribunal and Additional Sub-Judge,
Tiruvannamalai.



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C.M.A.No.1977 of 2012

J.NISHA BANU, J

mvs/vsi

C.M.A.No.1977 of 2012

22.04.2022