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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.1703 of 2018

S.Ramachandran

... Appellant

Vs.

The Managing Director,
Metropolitan Transport Corp. Ltd.,
Pallavan Salai,
Chennai - 2.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 06.01.2017 made in M.C.O.P.No.3516 of 2011 on the file of the Motor Accident Claims Tribunal, (VI Small Causes Court), Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondent : Mr.S.Sivakumar



J U D G M E N T

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The claimant is before this Court seeking an enhancement of the award passed in M.C.O.P.No.3516 of 2011 by the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

2.The facts in brief are as follows:

The claimant had filed the above M.C.O.P seeking compensation for the injuries sustained by him in a road accident on 22.04.2011. It is his case, on the said date at about 21.10 hours, he was traveling in the bus belonging to the respondent / Transport Corporation bearing registration No.TN-01-N-8268 on Rajaji Salai and proceeding in the South to North direction. When the bus reached the RBI Subway, on account of the rash and negligent driving of the driver of the respondent bus, the bus hit the wall and then the center median, as a result of which the appellant had sustained grievous injuries.

3. The respondent / Transport Corporation had filed a counter, denying the accident and the fact that the driver had driven the bus in a rash and negligent manner. It was their case that on the said date viz.,



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22.04.2011, the respondent's bus bearing route No.119 was proceeding from Kovalam to Toll Gate. When the bus was proceeding on Kamarajar Salai and when the bus neared the RBI Subway, on account of the sudden downpour on 22.04.2011, water had filled the Subway, making it inconvenient for light vehicles to pass the subway. At that time, an Auto had suddenly stopped in the subway on account of water logging and to avoid hitting the Auto, the driver of the respondent bus applied sudden brake and turned right. Since the road was wet with water and mixed with engine oil, the respondent bus skid and hit the median in the process. The said accident was nothing but an act of god.

4. The respondent / Transport Corporation has also contended that the quantum of compensation was on the higher side. The Tribunal below after considering the evidence available on record came to the conclusion that the accident had occurred only on account of the rash and negligent driving of the respondent bus and taking into account the disability assessed as per the disability certificate, exhibited as Ex.P4, awarded the compensation of Rs.30,000/-.



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5. Aggrieved by the very low compensation, the Appellant / claimant has filed the above Appeal.

6. The main contention put forward by the Appellant / claimant is that although P.W.2 (Doctor) had assessed and issued a disability certificate (Ex.P4), assessing the disability at 35%, the Tribunal refused to take into consideration the same, as the Appellant has not sustained any permanent disability. Therefore, no amounts came to be awarded under the head of disability and ultimately, a lumpsum of Rs.30,000/- has been ordered.

7. The learned counsel for the Appellant / claimant would submit that the Tribunal has not considered the evidence of P.W.2, who was a practicing Doctor and who in his certificate has assessed the disability at 35%. He would, therefore, submit that the amounts have to be granted under this head. The said argument was rejected to by the counsel appearing for the respondent / Transport Corporation stating that the disability certificate has been issued without following the guidelines and procedures and has, therefore, been rejected by the Tribunal. That apart, the counsel would argue



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that the Appellant / claimant has not sustained any disability by reason of which he has suffered a functional disability. The injuries are also do not qualified as causing as permanent disability.

8. Heard the learned counsels appearing on either side and perused the materials available on record.

9. The Tribunal while rejecting the disability certificate has given its reasoning which has not been seriously challenged by the Appellant. P.W.2 (Doctor) in very clear words stated except for taking X-rays, he has not perused the earlier medical records to arrive at his conclusion. The Tribunal has also taken note of the fact that P.W.2 has not given the initial treatment to the Appellant / claimant. The injuries sustained as per Ex.P3 is only a lacerated wound on dorsum left foot. It is also seen that the Appellant / claimant who has admitted into the Government General Hospital has left the hospital stating that he is not willing to take the treatment. This only goes to show that the injuries sustained by him are not of a grievous nature and therefore, no credence can be given to Ex.P4, disability certificate.



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10. In the result, I see no reason to set aside the order passed by the Motor Accident Claims Tribunal, (VI Small Causes Court), Chennai.

Accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs.

27.06.2022

Index : Yes/No
Speaking Order : Yes / No
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To

1. The Motor Accident Claims Tribunal,
(VI Small Causes Court), Chennai.



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P.T. ASHA, J.

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