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CMA.No.1837 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2022

CORAM:

THE HONOURABLE MS. JUSTICE P.T.ASHA

CMA.No.1837 of 2021

&

CMP No.9868 of 2021

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
No.3/137, Salamedu, Vazhureddy & Post,
Villupuram Circle and District.

.. Appellant

vs.

Subramani, S/o. Annamalai Kumar

..Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the decree and judgment dated 12.02.2021 made in M.C.O.P. No.158 of 2019 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Thiruvannamalai.

For Appellant : Mr.K.J. Sivakumar

For Respondent : Mr. Paneer Selvam

JUDGMENT

The State Transport Corporation has filed this Civil Miscellaneous Appeal seeking to set aside the award passed in M.C.O.P.No.158 of 2019 by the Motor Accident Claims Tribunal, Thiruvannamalai.

2. The facts in brief are as follows:



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2.1 The respondent/claimant had filed the abovesaid claim petition seeking compensation of a sum of Rs.10,00,000/- for the injuries sustained by him in an accident dated 06.02.2019 involving a bus belonging to the appellant herein.

2.2. It is the case of the respondent/claimant that on 06.02.2019 around 6.30 p.m., when the respondent/claimant was waiting on the edge of the road, a bus belonging to the respondent bearing Registration No.TN-32-N 4098, which was driven in a rash and negligent manner by the driver of the appellant/respondent, hit the claimant, as a result of which, he sustained grievous injuries. Therefore, the claimant had come forward with the above claim petition.

2.3. The appellant/respondent has filed its counter denying negligence on the part of the driver and also on the quantum of compensation of the claim made by the claimant. They also contended that the quantum of compensation was on the higher side.

2.4. The tribunal below, on considering the evidence of P.W.1



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and perusing Ex.B1, arrived at a finding that it was the driver of the appellant/respondent bus, who was responsible for the accident on account of his rash and negligent driving. The tribunal had taken into account the disability certificate issued under Ex.P5 by the Institute of Mental Health, Kilpauk, to arrive at a disability of 75%. The Tribunal, thereafter, fixed a notional income of Rs.7,500/- per month and awarded a compensation of Rs.4,72,500/- towards loss of earning capacity, Rs.1,50,000/- towards pains and sufferings, Rs.1,20,000/- towards loss of amenities, Rs.80,000/- towards attender charges, Rs.70,000/- towards shock and mental agony, Rs.60,000/- towards extra nourishment and Rs.50,000/- towards transport expenses. The appellant/transport Corporation has challenged the same both on the ground of quantum as well as negligence.

3. Heard the learned counsel on both sides.

4. As regards the issue of negligence, from the FIR marked as Ex.P1, it is clear that the accident was the result of rash and negligent driving by the driver of the respondent bus. The appellant has not been able to produce any proof to set aside the above finding. Therefore, the



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finding of the tribunal with reference to negligence is confirmed.

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5. As regards the quantum of compensation, the tribunal has taken into account only a sum of Rs.7,500/- per month as claimant's income, though he had sought for a sum of Rs.15,000/- per month from his vegetable vending business, and awarded Rs.4,72,500/- towards loss of income. The tribunal has assessed the disability at 75%, which is also supported by the evidence of P.W.2. Considering the fact that the tribunal had extensively considered the evidence, both oral and documentary, to arrive at the award, which is now the subject matter of the appeal, I see no reason to set aside the same. Accordingly, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Speaking / Non-speaking order



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To

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The Special Judge
Motor Accident Claims Tribunal,
Thiruvannamalai.



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P.T. ASHA, J.

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