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C.M.A.No.2535 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

CORAM:

THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.M.A.No.2535 of 2009 and
and M.P.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division I
37 Mettupalayam Road,
Coimbatore.

... Appellant

VS.

Ganesh Moorthi

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Decree and Judgment dated 13.08.2008 made in M.C.O.P.No.103 of 2006 on the file of the Additional District Judge, Fast Track Court V, Motor Accident Claims Tribunal, Tirupur.

For Appellant : Mr.Sundaravadhanam

J U D G M E N T

The appellant-Transport Corporation has filed this appeal challenging the quantum of compensation awarded to the respondent/petitioner.



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2. The grounds raised by the appellant are that the award amount is excessive compensation for the injuries sustained by the respondent. The Tribunal erred in not considering the contributory negligence on the part of the injured claimant.

3. On 15.12.2005, when the respondent/petitioner was riding two wheeler TN 39 AB 6181 in the Palladam to Tirupur main road opposite to Vettupatta Kudai Bus stop, the bus bearing Reg.No.TN 32 N 0852 belonging to the appellant Transport Corporation stopped there and the petitioner without noticing the on coming bus, suddenly crossed the road, the driver of the bus applied brake and stopped the bus. In spite of the same, the respondent/petitioner dashed against the bus and sustained injuries.

4. The petitioner claimed Rs.5,00,000/- before the Tribunal. Before the Tribunal, the driver of the bus was examined as R.W.1, who deposed that he was driving the bus slowly in the accident spot, but the petitioner (injured) came rashly in a two-wheeler and he hit against the bus. The Tribunal answered the issues raised before it that the accident was due to



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rash and negligent act of the driver of bus as there is no corroborative evidence to support the version spoken to by R.W.1. The Transport Corporation being the owner of the bus is liable to pay the compensation.

5. On the aspect of quantum of compensation, based on Exhibits Ex.A.2-Accident Register, Ex.A.3-discharge summary, Ex.A.4-disability certificate, Ex.A.5-x ray and on a finding that respondent-injured was working as a cooly in a power loom and has been unable to pursue his avocation after the accident, fixed 25% disability. The Tribunal also taking into consideration the nature of injuries which resulted in partial loss of earning power, applied multiplier 13 and taking Rs.3000/- as notional income, worked out Rs.1,17,000/- as loss of earning power. Tribunal also awarded Rs.15,000/- for pain and suffering, Rs.3000/- for extra nourishment, Rs.1500/- for transport expenses and Rs.3000/- for loss of income during the treatment. The Tribunal, thus awarded Rs.1,39,500/- as total compensation to the respondent-injured petitioner along with 7.5% interest per annum from the date of petition till the date of payment.

6. The Award of the Tribunal cannot be said to be excessive as the



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injured petitioner suffered head injury and sustained 25% partial disability.

Accordingly, finding no merit in the appeal, the appeal filed by the appellant-Transport Corporation is dismissed. The Award stands confirmed. The appellant-Transport Corporation is directed to deposit the entire award amount together with interest @7.5% per annum to the credit of MCOP.No.103 of 2006 less the amount if any already deposited, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the respondent-petitioner is entitled to withdraw the same along with accrued interest.

7. The Appeal is dismissed, confirming the Award in all aspects. No costs. Consequently, connected miscellaneous petition is closed.

16.03.2022

Index : Yes/No

Internet : Yes / No

mvs/nvsri

To:-

1) The Additional District Judge,



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Fast Track Court V, Motor Accident Claims Tribunal, Tirupur.

2) The Section Officer,

V.R.Section, Madras High Court.



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J.NISHA BANU, J.,

nvsri

Judgment made in
C.M.A.No.2535 of 2009

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