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CMA.No.2797 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2022

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THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CMA.No.2797 of 2022
and C.M.P.No.21804 of 2022

Tamil Nadu State Transport Corporation Ltd.,
Rep. By its Managing Director,
Office at No.3/137, Salamedu,
Vazhudhareddy Post, Villupuram 605 602.

..Appellant

Vs.

1.K.Prasad
2.K.Sundaramoorthy
3.ICICI Lombard General Insurance
Company Ltd.,
No.84,85, Arihand Plaza, Wall Tax Road,
Chennai – 600 003.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, to set aside the decree and judgment dated 28.11.2016 made in MCOP.No.278 of 2011 on the file of the Motor Accident Claims Tribunal, Additional Sub-Judge's Court, Chengalpattu.

For Appellant : Mr.K.J.Sivakumar

For Respondents

For R1 : Ms.Ramya V.Rao

For R3 : Mrs.R.Sreevidya



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JUDGMENT

The Civil Miscellaneous Appeal is filed as against the decree and judgment dated 28.11.2010 made in MCOP.No.278 of 2011 on the file of the Motor Accident Claims Tribunal, Additional Sub-Judge's Court, Chengalpattu, thereby awarded compensation of Rs.16,41,800/-.

2. The first respondent is the claimant. He filed a claim petition alleging that on 2.10.2008 at about 3.30 p.m., when he was travelling as a passenger in the appellant's bus bearing Reg.No.TN-21-N-1095, Route No.188 A/2 from Thiruthani to Kottakuppam, near Gas Company-Pudupatnam ECR, the second respondent's lorry bearing Reg.No.TN-21-AX-4125 driven by its driver with rash and negligent manner with high speed from which was coming in the opposite side came and hit the appellant's bus. Due to the said accident, the claimant sustained multiple injuries and he lost his full right hand. Immediately, he was taken to DAE Hospital, Kalpakkam, and later he was referred to Government General Hospital, Chennai. Due to the said accident he lost his right hand. Hence, he filed a claim petition.



3. On the side of the claimant he had examined PW1 to PW3 and marked Exs.P1 to 13 and on the side of the respondents no one was examined and no document was marked.

4. The Tribunal found that the accident had occurred only due the contributory negligence which was fixed against both the appellant as well as the second respondent herein and the third respondent herein. The second respondent's vehicle insured with the third respondent's Company. 80 % negligence as fixed at the second and third respondents and 20% was fixed at the appellant. The only ground raised by the appellant is about quantum of compensation.

5. On perusal of records revealed that the doctor, who treated the claimant was examined as PW2. Accordingly, he issued a disability certificate which was marked as Ex.P11, that the claimant had suffered total permanent disability of 90%. Though on multiple method of 18%, the Tribunal failed to consider the future prospects of the appellant for the first respondent. Therefore, the compensation awarded by the Tribunal is quite reasonable and there is no merit in this appeal. That apart, 80% of the compensation was already paid to the claimant by the third respondent herein and only in respect



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of 20% of the compensation is yet to be paid. Hence this Court finds no infirmity or illegality in the order passed by the Court below.

6. Accordingly, the civil miscellaneous appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.12.2022

Speaking/Non-speaking order

Index : Yes/No

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To

The Motor Accidents Claims Tribunal,
Krishnagiri.



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G.K.ILANTHIRAIYAN.J.

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