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C.M.A.No.1835 of 2019

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 03.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.1835 of 2019

FR.C.M.Joseph

... Appellant/Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation,
Pallavan House,
Chennai.

... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 24.07.2012 in M.C.O.P.No.20 of 2009 on the file of the learned XVI Additional District Judge, Motor Accidents Claims Tribunal, Chennai.

For Appellant : Mr.Mohanakrishnan
for Mr.M.Paul Raj

For Respondent : Mr.S. Sivakumar



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JUDGMENT

The claimant is the appellant before this Court challenging the Award dated 24.07.2012 passed by the learned XVI Additional District Judge, Motor Accidents Claims Tribunal, Chennai in M.C.O.P.No.20 of 2009.

2.Considering the fact that the entire Award is based on Ex.R1- Rough Sketch which is a self serving document the claimant is before this Court. The claimant is aggrieved by the fact that the Tribunal has fastened 50% of liability on the appellant solely on the Ex.R.1 which is an internal investigation undertaken by the respondent Transport Corporation without getting any input from the claimant. They have also questioned the Award stating that the compensation granted under the head of disability is low and the Tribunal ought to have adopted a multiplier method.



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3.Heard the learned counsels appearing on either side and perused the papers.

4.The Tribunal has proceeded to fasten 50% of the liability on the appellant only on the basis of Ex.R.1, in which the Rough sketch has been included showing the alleged scene of occurrence as narrated by the driver/RW1 without getting any input from the claimant. Ex.P.1 – First Information Report shows the negligence only on the part of the driver of the respondent's bus. RW1 who is the driver of the bus at the time of accident in his evidence has admitted that the First Information Report has been lodged against him. Except for the interested testimony of RW1, there is no other evidence to show that it was the claimant who had attempted to overtake another vehicle and consequently, dashed against the bus. In the absence of the above, the



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respondent/Transport Corporation cannot rely only upon Ex.R.1 which as already stated is a self serving statement.

5.In view of the above, the finding of the Tribunal holding that the appellant was also responsible for the accident is set aside and the entire liability is fastened on the respondent/Transport Corporation. As regards the argument on the compensation for disability, the appellant has not let in any evidence to show that by reason of the disability she has sustained any loss of earning capacity or she is not able to function as before. In the light of the above, I see no reason to interfere with the Award passed by the Tribunal with reference to the quantum of compensation awarded.

6.Therefore, this Civil Miscellaneous Appeal is partly allowed by directing the respondent/Transport Corporation to pay the entire sum of Rs.4,58,755/- with interest @ 7.5% per annum, less the amount already deposited, with proportionate accrued interest and



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costs, to the credit of M.C.O.P.No.20 of 2009 on the file of the learned XVI Additional District Judge, Motor Accidents Claims Tribunal, Chennai, within a period of four weeks from the date of receipt of a copy of this order, if not deposited earlier. On such deposit, the appellant is permitted to withdraw the entire award amount with proportionate accrued interest and costs, by making necessary applications.

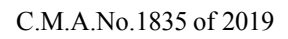
The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimant. No costs.

03.11.2022

Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
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P.T. ASHA, J,

mps

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