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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

C.M.A. No.1775 of 2018 and
CMP No.13704 of 2018

Director of Rural Development and Panchayat
Panagal Building,
Saidapet - 15 ... Appellant

Vs.

N.Raju ... Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 07.11.2017 passed by the Motor Accident Claims Tribunal (Special Sub Court No.1, Small Causes Court) Chennai, in M.C.O.P. No.3689 of 2013.

For Appellant : Mr.P.Harish
Government Advocate (CS)

For Respondent : No Appearance

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J U D G M E N T

This Civil Miscellaneous Appeal is filed to set aside the Judgment and Decree dated 07.11.2017 passed by the Motor Accident Claims Tribunal (Special Sub Court No.1, Small Causes Court) Chennai, in M.C.O.P. No.3689 of 2013.

2. The respondent is the claimant and the appellant herein is the owner of the offending vehicle.

3. The respondent herein had filed a claim petition before the Tribunal in M.C.O.P. No.3689 of 2013 claiming compensation of Rs.15,00,000/- for the injuries sustained by him in a motor accident that occurred on 31.01.2011 stating that on 31.01.2011 at about 6.15 hours, when he was riding his Hero Honda Splender Motor Cycle bearing Regn. No.TN-09-AE-6169 towards Guindy from Tambaram on GST Road, in front of the Airport Bridge, a Government Car bearing Regn. No.TN-09-G-2230, driven by its driver in a rash and negligent manner with dangerous speed on the left side of the road, suddenly took turn to the right side of the road without any indication and hit against the claimant's vehicle due to which, the claimant

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sustained grievous injuries. Thereby, the appellant herein, as the owner of the vehicle is liable to pay compensation.

4. In order to substantiate the case of the claimant, on the side of the claimant, 2 witnesses were examined as P.W.1 and P.W.2 and 28 documents were marked as Ex.P.1 to Ex.P.28. On the side of the respondent, one witness was examined as R.W.1 and no documentary evidence was let in.

5. The Tribunal, after hearing the arguments on either side and considering the materials, came to the conclusion that the appellant/owner of the bus is liable to pay compensation to the tune of 90% after deducting 10% for the contributory negligence committed by the Injured/claimant namely Mr.N.Raju and awarded compensation of Rs.5,07,600/- with cost and interest at the rate of 7.5% per annum from the date of filing of the claim petition till the realization, payable by the appellant (after deducting the 10% for the contributory negligence committed by Mr.N.Raju/the claimant on the sum of Rs.5,64,000/-).

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6. Aggrieved by the said order, the appellant/Director of Rural Development and Panchayat who is the owner of the offending bus, has filed the present appeal before this Court.

7. The learned counsel for the appellant/Director of Rural Development and Panchayat would submit that the respondent/claimant had already filed an appeal in CMA No.1210 of 2018 against the Award of the Tribunal questioning the 10% contributory negligence fastened upon him and the same was decided by this Court on 13.10.2022 wherein, this Court has set aside the order of the Tribunal regarding fixing of 10% contributory negligence on the respondent/claimant and that the appellant/Rural Development and Panchayat has not filed any appeal challenging the said findings. Further, the learned counsel fairly conceded that the appellant/ Rural Development and Panchayat is not going to file any appeal against the said findings and they are ready to obey the order of this Court in the said appeal.

8. Heard the learned counsel for the appellant.

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9. Once this Court already decided the issue of contributory negligence and fixed the entire negligence on the part of the appellant/Rural Development and Panchayat in the appeal in C.M.A.No.1210 of 2018 which arose out of the very same accident and the very same order of the Tribunal, this Court cannot take a different view as there cannot be two different views on the very same issue. Further, the appellant/Rural Development and Panchayat, is also not ready to challenge the said Judgement. Therefore, there is no merit in the appeal and the appeal is liable to be dismissed.

10. Accordingly, this Civil Miscellaneous Appeal is Dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

01.09.2023

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes/No

To
1.The Motor Accident Claims Tribunal
(Special Sub Court No.1, Small Causes Court) Chennai.

2.The Section Officer,
VR Section, High Court, Madras.

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P.VELMURUGAN. J.

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