



C.M.A.No.246 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 07.02.2023	Pronounced on 15.02.2023
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.246 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore Division II) Ltd.,
Chennai-malai Road,
Erode.

... Appellant

Vs.

1.Parimalam
2.A.Eswaran

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Award passed in the above MCOP.No.314 of 2017 dated 28.03.2021 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Perundurai.

For Appellant : Mr.M.Murali Vinoth
For Respondents : No appearance



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J U D G M E N T

The Appeal has been filed to set aside Award passed in the above MCOP.No.314 of 2017 dated 28.03.2021 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Perundurai.

2. The Managing Director of the State Transport Corporation, Coimbatore Division II, is the appellant herein.

3. The appellant has preferred this appeal against the award passed in M.C.O.P.No.314 of 2017 on the file of the Motor Accidents Claims Tribunal/Sub-Judge, Perundurai, on the ground of quantum.

4. During the trial, on the side of the claim petitioner, P.W.1 and P.W.2 were examined, Ex.P1 to Ex.P.10 were marked and on the side of the Respondents, no one was examined and no document was marked and on the side of the Tribunal Ex.C1 was marked.



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5. The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the vehicle (driver of the Tamil Nadu State Transport Corporation) are not disputed and hence, the finding of the Trial Court that the accident has taken place due to the rash and negligent driving of the driver of the above said Transport Corporation is hereby confirmed. The Tribunal has held so based upon the Exs.P1 to P3 and P7 namely certified copy of FIR, Rough Sketch, Observation Mahazar, Final Report and also the evidence of PW1. In the absence of any contra evidence, the Trial Court has come to the conclusion as stated supra and hence, the said finding does not warrant any interference at the appellate stage.

6. On the point of quantum of compensation, P.W.1 has spoken about the nature of injuries enumerated. As per Ex.P6/Wound Certificate, the first respondent sustained the following injuries; (i) Contusion Occipital region, (ii) Lacerated wound left leg and (iii) Swelling and tenderness in left shoulder.

7. Taking into consideration the evidence of PW2/Dr.Prakash, and Ex.P8/Discharge summary shows that the injured was admitted in the hospital



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as in-patient for five days. The bills to the extent of Rs.35,951/- were marked as Exs.P9. The claim petitioner was working as an Administrator in Lenstories at Coimbatore. The notional income was fixed at Rs.5,000/- and hence, I find that the percentage of disability fixed by the Tribunal is based upon the evidence of P.W.2 and Ex.P8. Hence, for the percentage of disability of 28% and notional income fixed by the Tribunal are just and fair and the compensations awarded under other headings also appears to be just and reasonable. Hence, I do not find any reason for admission of this civil miscellaneous appeal.

8. In view of the above, the civil miscellaneous appeal is dismissed at the stage of admission itself. No costs. Consequently connected miscellaneous petition is closed.

15.02.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
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To

Motor Accident Claims Tribunal, Subordinate Judge,
Perundurai.



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RMT.TEEKAA RAMAN.J,

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**Pre-delivery Judgment made in
C.M.A.No.246 of 2023**

Dated: 15.02.2023