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C.M.A.No.3115 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3115 of 2024

and

C.M.P.No.25704 of 2024

The Divisional Manager
Tamil Nadu State Transport Corporation
Kumbakonam Division Limited,
Railway Station Road, Kumbakonam.

... Appellant

Vs.

Uzher Ahamed

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment 24.07.2023 made in M.C.O.P.No.140 of 2017 on the file of the Chief Judicial Magistrate / Motor Accident Claims Tribunal, Namakkal.

For Appellant : Mr.M.Murali Vinodh

JUDGMENT

The above appeal is filed by the appellant/Transport Corporation



C.M.A.No.3115 of 2024

against the Judgment and Decree dated 24.07.2023 passed in M.C.O.P.No.140 of 2017 by the Chief Judicial Magistrate / Motor Accident Claims Tribunal, Namakkal.

2. In view of the order being passed in this appeal, notice to the respondent is dispensed with.

3. It is the case of the claimant that, on 03.07.2013 at about 8.00 pm, when the claimant / respondent was riding a two wheeler bearing Regn.No.TN 28 H 9913, at that time the appellant Corporation Bus bearing Regn.No.TN 45 N 3252 driven by its driver came in a rash and negligent manner and dashed the vehicle in which the claimant was riding, due to which, the respondent / claimant sustained grievous injuries. Therefore, the claimant had filed a claim petition claiming a sum of Rs.15,00,000/- for the injuries sustained by him in the said accident.

4. Before the Tribunal, the appellant had examined P.W.1 and marked Exhibits P.1 to Ex.P.5. On the side of the respondent, he examined R.W.1 and marked Ex.R1 and Court document was marked as Ex.C.1.



C.M.A.No.3115 of 2024

WEB COPY

After adjudication, the Tribunal awarded a sum of Rs.1,73,466/- as compensation to the appellant. Challenging the same, the appellant / Transport Corporation has preferred the present appeal.

5. The learned counsel appearing for the appellant / Transport Corporation submitted that, though as per the disability certificate issued by the Medical Board, the Tribunal has rightly fixed the disability of the claimant at 3%, however, the amount fixed under the head “pain and suffering” is highly excessive, which requires interference of this Court. Moreso, insofar as the compensation awarded under the head “loss of amenities” is concerned, no compensation can be awarded under such head as the said head is not conventional head, which does not attract any compensation.

6. Heard the learned counsel appearing for the appellant and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect.



C.M.A.No.3115 of 2024

Admittedly the accident happened on 03.07.2013. In order to prove the said incident, the claimant has examined an independent eye witness as P.W.1. who categorically deposed before the Tribunal that the accident had occurred solely due to the driver of the appellant Corporation Bus. However, in order to prove the same no independent eye witness has been examined on behalf of the appellant / Transport Corporation. However, since, giving under one head and reducing under the other head would result in the amount to be awarded to be the same and no useful purpose would be served in modifying the compensation under the heads, while the compensation amount would remain the same, which would be nothing but an exercise in futility, therefore, this Court is not embarking upon the said modification, but suffice to confirm the compensation awarded by the Tribunal.

8. For the reasons aforesaid, this Appeal stands dismissed, confirming the award passed by the tribunal in MCOP.No.140 of 2017 dated 24.07.2023 and the appellant / Transport Corporation is directed to deposit the compensation of **Rs.1,73,466/-** awarded by the tribunal to the



C.M.A.No.3115 of 2024

credit of M.C.O.P.No.140 of 2017 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any, already deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the Tribunal is directed to transfer the said amount to the respondent directly to his bank account through RTGS within a period of two (2) weeks thereafter. There shall be no order as to costs in this appeal. Consequently, connected miscellaneous petition is closed.

03.12.2024

Index : Yes / No
Speaking order / Non-speaking order
Netrual Citation Case : Yes / No
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C.M.A.No.3115 of 2024

M.DHANDAPANI, J.

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To

1.The Chief Judicial Magistrate / Motor Accident Claims Tribunal,
Namakkal.

2.The Section Officer, V.R.Section, High Court, Madras.

C.M.A.No.3115 of 2024

03.12.2024