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CMA.(MD)No.951 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24/04/2024

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The Hon'ble Mr.Justice **G.ILANGOVAN**

CMA (MD) No. 951 of 2021

and

CMP (MD) No. 9040 of 2021

The Tamil Nadu State Transport
Corporation Ltd.,
Bye Pass Road,
Madurai-16
Through its
The Managing Director : Appellant/2nd Respondent

Vs.

1.Alagarsamy : R1/Petitioner
2.K.Pownraj : R2/1st Respondent

PRAYER:-Civil Miscellaneous Appeal is filed under section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree passed in MCOP No.2068 of 2014 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Madurai, dated 06/03/2020.

For Appellant : Mr.K.Sudalaiyandi

For 1st Respondent : Mr.I.Robert Chandrasekar

For 2nd Respondent : No appearance



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JUDGMENT

This Appeal is filed seeking to set aside the judgment and decree, dated 06/03/2020 passed in MCOP No.2068 of 2014 by the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Madurai.

2.The facts in brief:-

The claimant was travelling as passenger in the Bus bearing registration No.TN-58-N-0880 belongs to the appellant herein on 10/09/2014 from Thirunagar to Thanakkankulam. At about 07.35 pm, the Bus stopped at Thanakkankulam Bus stop. He was getting down from the Bus. But without noticing the same, the driver of the Bus moved the vehicle. As a result of which, he fell down and sustained injuries. Over the occurrence, a case in Crime No.541 of 2014 was registered by the Thirunagar Police Station. The petitioner was admitted in the Lakshmana Hospital, Madurai. Because of the accidental injuries, he could not continue his job. He also lost his earning capacity. Seeking compensation amount of Rs.10,00,000/-, he filed the claim petition.

3.That was resisted by the appellant stating that only because of the negligence on the part of the claimant, he fell down and sustained injuries. The injured was not travelling in the Bus.



4.Before the Tribunal, on the side of the claimant, one witness was examined and 7 documents marked. On the side of the Appellant Transport Corporation, the driver of the Bus was examined as RW1 and no document was marked.

5.At the conclusion of the enquiry, the Tribunal found that the occurrence took place because of the negligent act on the part of the appellant Bus driver and awarded a total compensation of Rs.8,31,500/-.

6.With regard to the first aspect of negligence, the Tribunal on the basis of the evidence let in and the FIR registered against the driver of the offending vehicle concluded that the occurrence took place because of the negligence on the part of the Bus driver.

7.Regarding the compensation, it assessed the same at 70% and fixed compensation amount at Rs.4,000/- per percentage. To that conventional amounts were also added, apart from the medical expenses and arrived at a total compensation of Rs.8,31,500/-.

8.Aggrieved over the same, this appeal is preferred by the appellant stating that they are disputing the quantum.



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9.Regarding the negligence aspect, as mentioned above, the Tribunal concluded that it occurred only due to the rash and negligence on the part of the appellant Bus driver. The manner in which, the occurrence said to have taken place also indicate that without noticing the movement of the passengers, it appears that the vehicle was moved by the appellant Bus driver. So this indicates that the appellant Bus driver was responsible for the occurrence. I find no reason to differ from the finding recorded by the Tribunal on this aspect.

10.With regard to quantum, we will straightaway go to the evidence of the claimant. He has stated that he has suffered injuries on both legs, hands and on the hip and neck portions. He was admitted in the hospital called 'Lakshmana Hospital Madurai' and taking treatment as inpatient from 10/09/2014 to 09/10/2014 for about one month. Because of the accidental injuries, now he is suffering from breathing problem and could not continue his day today activities as before.

11.Ex.P5 is the discharge summary, wherein the following injuries were noted;-

*"1.Right multiple rib fracture with
haemothorax.*



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2.Clavicle displacement.

3.Multiple rib fracture in his side.

4.Comminuted Right elbow lateral condyle fracture with inter articular extension.

5.Fracture right ulna shaft 4/3rd comminuted."

12.So it is seen that he has suffered multiple fracture and multiple injuries. So the claimant was referred to the Medical Board attached to the Mdurai Rajaji Government Hospital for assessment of disability. The Board assessed the disability at 70% as partial permanent disability. Considering above said, the tribunal awarded compensation on percentage at Rs. 4,000/-. To this, medical expenses bill supported by the bills and other conventional amounts were also added. Considering the nature of the injuries suffered by the claimant and the age, fixing of quantum at Rs.4,000/- per percentage cannot be construed to be excessive.

13.So I find that the compensation awarded by the Tribunal is perfectly reasonable and just compensation also, which requires no interference.



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14.In the result, this civil Miscellaneous Appeal is

dismissed. No costs. Consequently, connected

Miscellaneous Petition is closed.

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Index:Yes/No

Internet:Yes/No

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To,

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

2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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