

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1133 of 2016
& connected M.Ps.

The Managing Director
Tamil Nadu State Transport Corporation
(Salem Division-1) Ltd.,
Salem.

... Appellant/Respondent

vs.

1.Minor Aiswarya
(minor rep. by her mother and
natural guardian Geetha)

..Respondent/Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 04.09.2012 passed in M.C.O.P.No.506 of 2006 on the file of the Motor Accidents Claims Tribunal, Additional Subordinate Judge-II, Salem.

For Appellant : Mr.D.Venkatachalam

For respondent : Mr.S.P.Yuvaraj

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Additional Subordinate Judge-II, Salem in M.C.O.P.No.506 of 2006.

2. This is a case of injury. In an accident that took place on 22.08.2005 at 2.45p.m., when one Mohanasundaram was riding TVS suzuki bearing registration No.TN-30-Z-0662 on the Nangavalli-Mettur Main road, along with his wife and minor daughter as pillion rider at that time, a bus bearing Registration No.TN-27-N-0629 driven by its driver came in a rash and negligent manner, came from the back side and hit against the motor cycle, due to which, the minor girl/claimant was thrown away and fell down in front of the bus and thus sustained fracture and grievous injuries on her right leg and crush injuries all over the body. Immediately, she was taken to Gokulam hospital, Salem and thereafter to Ganga Hospital, Coimbatore and had taken treatment for nearly six months. The mother of the minor girl, approached the Tribunal claiming compensation to the tune of Rs.7,00,000/-.

3. The Tribunal, after analysing the materials available on record held that the accident had occurred due to the negligent act of the driver of

the appellant Transport Corporation and granted a sum of Rs.5,51,040/- as compensation. Aggrieved over the same, the Transport Corporation is before this Court.

4. According to the claimant, represented by her mother the driver of the appellant Corporation drove the bus bearing Registration No.TN-27-N-0629 in a rash and negligent manner, hit against the motorcycle due to which, her daughter sustained injuries. The injured had been in hospital from 22.08.2005 to 05.09.2005 & from 05.09.2005 to 14.10.2005 and from 18.01.2006 to 31.01.2006.

5. The learned counsel appearing for the Transport Corporation contended that the said motorcycle in which the injured was travelling had lost its control, came in a rash and negligent manner and hit against the MTC Bus and it is only due to the rash and negligent driving of the motorcyclist, the accident had occurred and that the driver of the Bus was no way responsible to pay any compensation to the claimant and he further contended that the compensation awarded by the Tribunal is on the higher side. It is his further contention that the amount awarded under the head 'pain and suffering' is excessive. Hence, he seeks modification of the award.

6. A bare reading of the award of the Tribunal would reveal that for 60% disability suffered by the minor claimant, the Tribunal has granted only Rs.2,000/-per percentage. In view of the judgment rendered in (Karuppasamy vs. M.Thirumal and others) reported in 2015 MHC 2735, the Tribunal could have granted Rs.3,000/- per percentage of disability suffered. Further, it could be seen no amount had been granted towards attender charges, though it is stated that the injured minor had taken treatment for nearly six months and no amount had also been granted towards loss of amenities. Hence, even if we take into account that the amount granted towards pain and sufferings is on the higher side, I am of the view that it can be adjusted under the other two heads attender charges and loss of amenities.

7. In view of the above, this Court finds no reason to interfere with the award of the Tribunal and hence the appeal is dismissed. No costs. Connected miscellaneous petition is closed.

8. The Appellant Transport Corporation is directed to deposit the entire award amount together with accrued interest @ 7.5% per annum from the date of claim petition, to the credit of M.C.O.P.No.506 of 2006 on the file of the Motor Accidents Claims Tribunal, Additional Sub Court-I, Salem within a period of four weeks, from the date of receipt of a copy of this order. Since

the claimant is a minor, the award amount shall be invested in a Nationalized Bank under fixed deposit scheme, initially for a period of one year and thereafter, renewed periodically, until she attains majority. The mother/natural guardian of the claimant is permitted to withdraw the interest accrued therein, once in three months. No costs. Consequently, connected Miscellaneous Petition is closed.

9. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016, scrupulously.

29.04.2016

smi

To

1. The Motor Accidents Claims Tribunal
Additional Subordinate Judge-II, Salem.

S.VAIDYANATHAN, J.

smi

Judgment in
C.M.A.No.1133 of 2016

29.04.2016