

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1137 of 2016
& C.M.P.No.8591 of 2016

The Managing Director
Tamil Nadu State Transport
Corporation Limited,
Kumbakonam Division-1.

... Appellant/Respondent

vs.

1.Minor Divyabharathi
(minor rep. by her father and
natural guardian R.Balasubramaniam)

..Respondent/Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 27.01.2012 passed in M.C.O.P.No.284 of 2010 on the file of the Motor Accidents Claims Tribunal, Additional Subordinate Judge, Myladuthurai.

For Appellant : Mr.D.Venkatachalam

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, Myladuthurai in M.C.O.P.No.284 of 2010.

2. This is a case of injury. In an accident that took place on 16.08.2010 at 7.30 hours, when a school going child aged 17 years was riding her bicycle, a bus bearing Registration No.TN-49-N-1937 driven by its driver came in a rash and negligent manner, hit against her, resulting in the claimant sustaining severe crush injuries including head injury and her right forehead has also been injured. The father of the minor girl, approached the Tribunal claiming compensation to the tune of Rs.1,00,000/-.

3. The Tribunal, after examining the evidences held that the accident had occurred due to the negligent act of the driver of the respondent Corporation and granted a sum of Rs.39,600/- as compensation. Aggrieved over the same, the Corporation is before this Court.

4. According to the claimant, the driver of the respondent Corporation drove the bus bearing Registration No. TN-49-N-1937 in a rash and negligent manner, hit against the girl's bicycle due to which, she fell down and sustained injuries and she was immediately taken to Government Hospital, Mayiladuthurai and thereafter to Anbu Hospital, Kumbakonam, for treatment. She underwent treatment in hospital from 16.08.2010 to 21.08.2010.

5. The learned counsel appearing for the Transport Corporation contended that the minor girl was riding her bicycle without following the traffic rules and the accident did not occur due to the rash and negligent driving of the bus belonging to the appellant and hence, the Transport Corporation is no way responsible to pay compensation to the claimant. He would further contend that the compensation awarded by the Tribunal is also on the higher side for the minor injury suffered. It is also contended that the medical bills produced by the father of the injured is for Rs.6,368/- and the Tribunal has erroneously awarded a sum of Rs.27,627/- towards medical expenses, without any basis. Hence, he seeks modification of the award.

6. A bare reading of the award of the Tribunal would reveal that except for injury and medical expenses, no other amount has been granted by the Tribunal. It is pertinent to note that although the minor girl suffered

grievous injuries and took treatment as in patient for six days, no amount had been granted towards pain and suffering and attender charges. Hence, though the argument put forth before this court that excess amount has been granted towards medical expenses appears to be correct, I am of the view that since no amount had been granted under the head pain and sufferings and attender charges, the excess amount granted under the head medical bills, can be granted under the heads 'pain and suffering' and 'attender charges' and hence, the compensation granted towards medical bills cannot be said to be excessive.

7. In view of the above, this Court finds no reason to interfere with the award of the Tribunal and hence, this Civil Miscellaneous 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 proportionate interest @ 7.5% per annum from the date of claim petition and costs before the Tribunal, to the credit of M.C.O.P.No.284 of 2010 on the file of the Motor Accidents Claims Tribunal, Additional Sub Court, Myladuthurai, within a period of four weeks from the date of receipt of a copy of this order. Since the claimant is a minor, the amount awarded 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 father/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. There will be no order as to costs in this appeal.

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

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To

1. The Motor Accidents Claims Tribunal
Additional Subordinate Judge, Myladuthurai.

S.VAIDYANATHAN, J.

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