



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:02.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.BASKARAN

C.M.A.No.1643 of 2015
and M.P.No.1 of 2015

The Managing Director
Tamil Nadu State Transport
Corporation, Kumbakonam
Kumbakonam Town & Taluk

..Appellant/Respondent

vs

Minor Chandirakasan
Rep. By his father
and Guardian Ramamoorthy
S/o.Thangavel
Residing at Rootu Street
Kanchanam, T.Mu.Elaga
Thiruthuraipoondi.

..Respondent/Claimant

Civil Miscellaneous appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 13.07.2012 made in M.C.O.P.No.381 of 2009 on the file of Motor Accidents Claims Tribunal, Subordinate Judge, Mannargudi.

For appellant : : Mr.D.Venkatachalam

J U D G M E N T

Heard the learned counsel for the appellant/Transport Corporation.

2. Challenging the award passed by the Motor Accident Claims Tribunal, Subordinate Court, Mannargudi, dated 13.07.2012 in M.C.O.P.No.381 of 2009, the appellant/Transport Corporation has come forward with the present Civil Miscellaneous Appeal.

3. For convenience sake, the parties are referred to hereunder according to their litigative status before the Tribunal. In the Claim Petition filed before the Tribunal, it is stated that on 01.12.2005 at about 3.15 p.m., while the Petitioner/injured aged 11 years after attending his school, was walking along the Tiruvarur - Thiruthuraipoondi Road, near Kachanam Petrol Bunk, the respondent/Transport Corporation bus bearing Reg.No.TN-49-0603, coming from north to south, and driven by its driver in a rash and negligent manner, hit the



petitioner, causing injuries on his head and also all over the body. The injured was immediately taken to Thiruthuraipoondi Government Hospital, wherein, the petitioner was given First aid and thereafter, he was taken to private hospital, wherein, treatment was given to the petitioner as out patient. It is stated that the petitioner could not run or play games and carry on regular activities and sought for compensation of Rs.50,000/-.

4. On the other hand, opposing the claim petition, the respondent/Transport Corporation filed counter and opposed the claim stating that the bus was not involved in any such accident as alleged in the petition. The burden is on the petitioner/injured to prove that the Corporation Bus was involved in the said accident. The respondent thus sought for dismissal of the claim petition.

5. The Tribunal, after considering the materials placed before it, found that the driver of the respondent/Corporation bus was negligent and caused the accident, which resulted in the Petitioner afflicted with injuries as detected in Ex.A.2-A.R.Copy. On that ground, the Tribunal awarded compensation of Rs.10,000/- to the injured claimant. Aggrieved over the same, the Transport Corporation as appellant has preferred this Civil Miscellaneous Appeal.

6. It is contended by the learned counsel for the appellant/Transport Corporation that the Corporation bus was not involved in the accident and the criminal case in this connection has been closed as mistake of fact. He further submits that except the FIR registered in respect of the accident, there is no other evidence to show that the Transport Corporation Bus was involved in the accident. Hence, he seeks to entertain the appeal.

7. Considering the oral and documentary evidence produced before the Tribunal, it is apparent that Ex.A.1-FIR was registered against the bus driver of the Transport Corporation Bus and Ex.A.2-Copy of Accident Register shows the fact that the Petitioner suffered injuries.

8. On the other hand, the appellant/Transport Corporation has not let in any evidence either oral or documentary in support of their contention that their bus was not involved in the accident.

9. In such circumstances, considering the finding given by the Tribunal and the fact that the appellant/Transport Corporation Bus is found to be involved in the accident and in the absence of any other evidence let in by the Transport



Corporation to disprove the case of the Petitioner, this court finds no merit in the appeal and same deserves to be dismissed. Accordingly, the Civil Miscellaneous Appeal is dismissed at the stage of admission itself. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nvsri

To

1.The Subordinate Judge,
The Motor Accidents Claims Tribunal, Mannargudi

2.The Section Officer,
V.R.Section, High Court, Madras.(2 copies)

1cc to Mr.D.Venkatachalam, Advocate Sr.No.120

C.M.A.No.1643 of 2015

KJI(CO)
sm:22.1.2018