



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.738 of 2016

and

CMP(MD)No.7316 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Madurai Division-2 Ltd.,
Tirunelveli. : Appellant/Respondent

Vs.

Minor Amis Raja : Respondent/Petitioner
(Minor respondent is represented
through his guardian and father
Navaskan)

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree passed in MCOP No.438 of 2004, dated 31st day of January 2007 on the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge), Tenkasi.

For Appellant : Mr.M.Prakash

J U D G M E N T

Aggrieved over the awarded passed by the Motor Accidents Claims Tribunal (Principal Subordinate Judge), Tenkasi, in MCOP No.438 of 2004, dated 31.01.2007, the appellant Transport Corporation has preferred this appeal.

2.The respondent, who is the eight year old, studying in the 3rd Standard, filed a petition seeking compensation of Rs.3,00,000/- on the ground that on 16.07.2004, he was travelling as a passenger in the bus belonging to the appellant transport corporation bearing registration No.TN-72-N-0744. The bus driver drove it in a high speed and lost control of the vehicle, run into a pond and it capsized. In the impact, he sustained fracture on the right leg and injuries all over the body and he was immediately taken to Tenkasi Government Hospital and he took treatment as inpatient for 30 days. A criminal case was registered against the driver of the bus, in Crime No.481 of 2004



for the offences under Sections 279, 337, 338 IPC. The other injured also filed claim petitions.

3.The appellant opposed the claim by filing a counter refuting the allegations in the claim petition.

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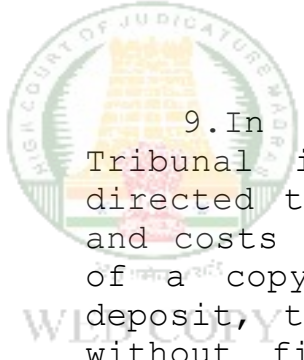
4.Before the Tribunal, on the side of the claimants, four witnesses were examined as PW1 to PW4 and Exs.P1 to P10 were marked. On the side of the Transport Corporation, one Mani was examined as R1, however no document was produced. Upon consideration of the oral and documentary evidence, the Tribunal held that the driver of the bus was responsible for the accident and awarded compensation of Rs.1,10,149/- together with interest @ 7.5% p.a. Challenging the said award, the present appeal has been filed.

5.Heard Mr.M.Prakash, the learned counsel appearing for the appellant Transport Corporation and perused the materials available on record.

6.All the claim petitions arising out of the accident were taken up together. The claimants examined themselves as witnesses and also produced FIR (Ex.P1) and the report of the Motor Vehicle Inspector (Ex.P3). The Tribunal on proper appreciation of the evidence held that the bus driver caused the accident.

7.The father of the claimant has given evidence as PW2 stating that the claimant, after taking treatment as inpatient in the Government Hospital, Tenkasi, took treatment in a private hospital in Pondicherry. After the accident, the claimant has lost the memory and he was not able to concentrate on his studies. Ex.P4 is the Accident register, which shows that the claimant has sustained fracture on the right leg and two simple injuries. Ex.P5 is the discharge summary and Ex.P6 certificate issued by the Sri Sai Kiruba Hospital, Pondicherry, shows that the claimant underwent surgery on 23.04.2005.

8.PW4 Dr.Vedhamoorthy has deposed that the claimant has sustained 50% permanent disability and he issued Ex.P9 disability certificate. The claimant has produced Exs.P8 and P10 X-rays and Ex.P7 medical bills. After analysing the oral and documentary evidence, the Tribunal has awarded Rs.50,000/- towards permanent disability; Rs.5,000/- towards pain and sufferings; Rs.10,000/- towards medical expenses; Rs.8,000/- towards transportation; Rs.5,000/- for mental agony and Rs.22,149/- towards medical expenses based on Ex.P7. The Tribunal has totally awarded **Rs.1,10,149/-** together with interest @ 7.5% p.a. In my considered view, the award passed by the Tribunal is fair and reasonable and



9. In fine, the appeal is dismissed and the award of the Tribunal is confirmed. The appellant Transport Corporation is directed to deposit the entire amount together with the interest and costs within a period of eight weeks from the date of receipt of a copy of this order, if not deposited already. On such deposit, the claimant is permitted to withdraw the entire amount without filing any formal application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

The Principal Subordinate Judge,
Tenkasi.

+1 cc to M/s.M.Prakash, Advocate in SR.No.41036

Copy To: The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai.

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CSL/SS-2/16.12.2016 :3P/4C

**Judgment made in
CMA (MD) No.738 of 2016
29.07.2016**