



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.743 of 2016
and C.M.P.(MD) No. 7333 of 2016

The Managing Director,
TNSTC,
Madurai.

... Appellant/Respondent

Vs.

Abarajithan

... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment passed in M.C.O.P.No.481 of 2007 dated 16.07.2009 on the file of the Motor Accident Claims Tribunal/I Additional Sub-Court, Madurai.

For Appellant : Mr.M.Prakash

J U D G M E N T

This Civil Miscellaneous Appeal is directed by the Transport Corporation against the award dated 16.07.2009 passed by the Motor Accident Claims Tribunal-cum-Additional Sub-Court, Madurai, in M.C.O.P.No.481 of 2007.

2. Heard the learned counsel for the appellant and perused the materials available on record.

3. The respondent herein filed a petition claiming compensation of Rs.10,00,000/- for the injuries sustained in an accident, which took place on 29.11.2003.

4. According to the claimant, on 29.11.2003, he was riding his motorcycle from Madurai Town to his house at Meenakshi Nagar. While so, a bus belonging to the appellant Corporation bearing Registration No. TN-59-0782, which was coming from the opposite directing in a rash and negligent manner hit against him. Due to the accident, he suffered multiple fractures and injuries all over the body. Immediately he was admitted in Apollo Speciality Hospital, Madurai for treatment. The claim was opposed by the appellant disputing the manner of accident and their liability. In the counter, the appellant has also disputed the age, income and occupation of the claimant.

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5. Before the Tribunal, in support of the case the

claimant examined himself as P.W.1 and 3 other witnesses were examined and marked Exs.P.1 to P.20. On the side of the appellant, the driver of the bus was examined as R.W.1 and marked the copy of the judgment as Ex.R.1.

6. P.W.1 has given evidence in support of his case and marked Ex.P.1 First Information Report, which would show that the criminal case was registered against the driver of the bus, Ex.P.2 is the copy of the Charge Sheet. Ex.R.1 would show that he was acquitted from the charges. The Tribunal accepting the evidence of P.W.1 and based on Ex.P.1 and Ex.P.2 came to the conclusion that the driver of the bus caused the accident.

7. P.W.1 deposed that he took treatment at Apollo Hospital as in-patient on 29.01.2003 to 06.02.2004 and he underwent surgery and skin crafting was also done. Again he was admitted in the hospital twice and discharged. Dr.Sivaramakrishnan, P.W.3 and P.W.4 Dr.Ravichandran who were working in Apollo Hospita have given evidence in support of the claimant.

8.It is seen from the records,the claimant was 15 year old on the date of the accident and she was studying +2.Considering the nature of injuries and period of treatment, the Tribunal has awarded Rs.50,000/- towards loss of amenities, Rs.1,000 towards Transport Charges, Rs.15,000/- towards pain and suffering,Rs.3,32,000/- towards medical expenses, Rs.49,000/- towards permanent disability based on Ex.P.19 Disability Certificate,Rs.49,000/- towards loss of earning capacity, Rs.10,000/- towards extra nourishment and Rs.1,000/- towards damage to the clothes and articles. The Tribunal has totally awarded Rs.5,07,000/- with interest at the rate of 7.5%.

9. The Tribunal had awarded the amount under the following heads:

Heads	Amount
For Transport Charges	Rs. 1,000/-
Loss of amenities	Rs. 50,000
For Pain and Suffering	Rs. 15,000/-
For Medical Expenses	Rs. 3,32,000/-
Loss of earning capacity	Rs. 49,000/-
For Permanent Disability	Rs. 49,000/-
Extra Nourishment	Rs. 10,000/-
Damage to the clothes and articles	Rs. 1,000
Total	Rs. 5,07,000/-

Challenging this amount, the appellant has filed this appeal.

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10. In the considered opinion of this Court, the award passed by the Tribunal is fair and reasonable and the same is



confirmed.

11. The Transport Corporation is directed to deposit the entire award amount with interest and costs within a period of eight weeks from the date of receipt of copy of this order, less the amount already deposited. On such deposit being made, the claimants are permitted to withdraw the entire award amount with interest and costs.

12. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected C.M.P.(MD) No.7333 of 2016 is also dismissed.

Sd/-

Assistant Registrar(CRL)

/True Copy/

Sub Assistant Registrar

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To,

1 The Motor Accident Claims Tribunal,
Additional Subordinate judge, Madurai.

2 The section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai

+1cc to Mr.M.Prakash, Advocate Sr.No. 41022

JAM/16.11.16/PV/3p-4c

C.M.A. (MD) No. 743 of 2016
and C.M.P. (MD) No. 7333 of 2016
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