

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2017

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THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 1261 of 2017

&

C.M.P. No. 6522 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation, Villupuram. Appellant (Respondent)

Vs.

Minor Dinakar,
Rep. by his father and Guardian
Mr.P. Veeramani,
Main Road, Alappakkam Post,
Cuddalore Taluk,
Cuddalore District. Respondent (Claimant)

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 29.06.2016 made in M.C.O.P. No. 2745 of 2015 on the file of Motor Accident Claims Tribunal, (I Additional Subordinate Judge), Cuddalore.

For Appellant :: Mr.S. Sairaman

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Transport Corporation aggrieved over the award of Rs. 1,51,000/- passed by the Motor accidents Claims Tribunal (I Additional Subordinate Judge), Cuddalore, in M.C.O.P. No. 2745 of 2015, in favour of the minor/respondent for the injuries sustained by him in the accident which occurred on 22.04.2015, when the bus bearing Registration No. TN 32 N 265, belonging to the appellant Transport Corporation, in a rash and negligent manner, started to move, without noticing the respondent alighting from the bus.

2. Heard the learned counsel for the appellant.

3. Though the learned counsel for the appellant would submit that the amount awarded by the Tribunal is on the higher side, the award would reveal that the respondent/minor, aged

about 16 years, suffered compound fracture of Terminal Phalanx Great Toe of Left Foot, leading to his undergoing surgery and fixing of K-wire, which was subsequently removed by another surgery. In view of that, the claimant is said to have sustained 20% disability as it was difficult for him to walk properly. Based on the evidence of P.W.2, Doctor, Medical Records and the treatment taken by the claimant as an in-patient from 22.04.2015 to 04.05.2015, the Tribunal rightly determined the disability at 20% and awarded a sum of Rs. 60,000/- towards "Permanent Disability" @ Rs.3000/- per percentage of disability. The sum of Rs.30,000/-each awarded towards "Pain and Suffering" and "Loss of Amenities", Rs.10,000/- towards "Attender Charges", Rs.10,000/- towards "Transport Expenses" and Rs.1000/- towards "Damage to Clothes" are all confirmed. However, Rs.10,000/- awarded towards "Mental Agony" amounts to double payment and therefore, the same is set aside. The amount of Rs.5000/- awarded towards "Extra Nourishment" is too low and the same is enhanced to Rs.15,000/-. The award passed by the tribunal, to the tune of Rs. 1,51,000/- together with interest @ 7.5% per annum is confirmed with the above modification.

4. The appellant Transport Corporation is directed to deposit the entire amount along with interest and costs, if not already deposited, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the Tribunal is directed to deposit the same in interest bearing Fixed Deposit, in any one of the Nationalised Banks, till the attainment of majority by the minor/respondent.

5. In the result, the Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is confirmed, with the aforesaid modification. No costs. Connected C.M.P. is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

nv

To

The I Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Cuddalore.

+lcc to Mr.S.Sairaman, Advocate Sr.23346

C.M.A. No. 1261 of 2017

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srg 29/05/2017



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