

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.02.2017

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

C.M.A.No.3004 of 2003

and

C.M.P. No.18478 of 2003

The Managing Director,
Metropolitan Transport Corporation Limited,
Chennai Division I,
Pallavan Salai, Chennai-6.

Formerly known as
Pallavan Transport Corporation Ltd.,
rep. By its Managing Director,
Chennai-2. ... Appellant

Vs.

Rajarajeswari (Minor)
rep. By her father and next friend
R.Murugesan ... Respondent

Prayer:- Civil Miscellaneous Appeal has filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 22.06.2001 made in M.C.O.P.No.3446 of 1997 on the file of the Motor Accidents Claims Tribunal (VI Small Causes Court), Chennai.

For Appellant : Mr.S.V.Vasanth Kumar

For Respondent : No Appearance

JUDGMENT

This appeal is preferred by the State Transport Corporation, challenging both the manner of the accident as well as the quantum of the award in M.C.O.P.No.3446 of 1997 on the file of the Motor Accidents Claims Tribunal (VI Small Causes Court), Chennai.

2. In an accident that has taken place on 05.01.1997, the bus bearing Registration No.TN-01-N-2142 belonging to the appellant is alleged to have hit an auto which in turn hit the claimant. In the chain of events, the claimant, a young girl of 16 years, a flower vendor, suffered injuries to her person. She moved the Tribunal seeking compensation for Rs.4,00,000/- and the Tribunal has passed an award for Rs.1,03,760/- payable

with interest at 9% per annum. A summary of the compensation amount is tabulated below:-

Heads	Award Amount (Rs.)
Loss of income	4,500
Transportation	1,000
Nutrition	1,000
Medical Expenses	2,260
Pain and Sufferings	15,000
Disability	10,000
Loss of earning power	70,000
Total	1,03,760

3. The learned counsel for the appellant submitted that it is not the case that the Transport bus directly hit the girl but there is an intervening auto rickshaw before the girl was hit. Its owner and Insurance Company have not been impleaded in the case at all. Secondly, the victim claims that she suffers fits but it is not proved that she was not epileptic prior to the accident. It is therefore necessary for this Court to interfere with the finding of absolute negligence on the part of the driver of the bus and also to take a relook at the quantum of compensation awarded.

4. This Court considered both these aspects. As was argued by the learned counsel the point to be considered is whether the injuries suffered by the girl could be directly linked to the negligence of the bus driver? Or, had the bus driver been careful would the girl had suffered any injury? The answer to both the questions in effect are the same. The point is who has triggered the chain of events that led to the accident, who failure in duty to care? So far as the driver of the auto rickshaw is concerned, he is as much a victim of the accident as the girl was. And it is not made evident what independent role the driver of auto played. The logical inference that could be drawn is to fix the blame entirely on the negligence of bus driver. What is now attempted by the appellant is to sprinkle its liability on everyone involved in the accident that the auto rickshaw was only a victim of its driver's negligence notwithstanding.

5. So far as the quantum of compensation awarded is concerned I find they are reasonable and necessarily just and fair. On the head of compensation granted for injury, the Tribunal has granted only Rs.10,000/- and has not treated the injury as permanent injury affecting the life of the girl. Therefore, the perception of the appellant that the tribunal has awarded on this head owing to her evidence that she suffers fits may not be correct.

6. In the result, I find no merit in this appeal and the appeal is dismissed without costs. The appellant is directed to deposit the compensation amount, less any already deposited within four weeks from the date of receipt of a copy of this order, whereupon the claimant would be entitled to withdraw the same forthwith. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1. The VI Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.
2. The Section Officer,
V.R.Section, High Court, Madras.

+1cc to Mr.S.V. Vasantha Kumar, Advocate SR. 6092

C.M.A.No.3004 of 2003

RSI (CO)
VR(09/03/2017)

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