



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.770 of 2016
and
C.M.P. (MD) No.7446 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation
Limited,
Tirunelveli Division,
Tirunelveli.

... Appellant/2nd Respondent

Vs.

1.Minor Pradeep Kumar
rep. by his father and guardian
Arunachalam ...1st Respondent/Petitioner

2.Essaki Raj
(2nd respondent is the driver of the appellant Corporation
and that notice may be dispensed with)
...2nd Respondent/1st respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 23.07.2014 made in M.C.O.P.No.153/2012 on the file of the Motor Accidents Claims Tribunal/Principal Sub Court, Tenkasi.

For Appellant : Mr.P.Prabhakaran

For Respondent : Mr.R.J.Karthik, for R1
R2 dispensed with

JUDGMENT

The Transport Corporation has filed this appeal questioning the impugned order primarily on the ground of quantum.

2.The claimant is a minor child aged 9 years. The bus belonging to the appellant Corporation had caused the accident resulting in cut injury on the forehead as well as the fracture on the right shoulder. The child had taken native treatment for a full one month. Initially, the child was admitted in a hospital also. The Doctor has issued a certificate stating that the child suffered 30% disability. The Tribunal had awarded a lumpsum compensation of

Rs.3 lakhs. This is questioned by the Corporation in this appeal.

3. I am of the view that since functional disability has not been demonstrated in this case, payment of said lumpsum is not permissible. However, it is a fact that there is a disability to the extent of 30%. Therefore, the compensation payable to the claimant will have to be reworked as under:

For disability 30% x 3 :	Rs.90,000
For Pain and Sufferings:	Rs.60,000
For attender charges :	Rs.30,000
For Extra nourishment :	Rs.15,000
For Transportation :	Rs. 5,000
Total :	Rs.2,00,000

Thus, the compensation payable to the claimant is reduced from Rs.3,01,500/- to Rs.2,00,000/-.

4. Accordingly, the award dated 23.07.2014 made in M.C.O.P.No.153/2012 on the file of the Motor Accidents Tribunal/Principal Sub Court, Tenkasi is modified.

5. The appellant Transport Corporation is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum, from the date of petition till the date of realization and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the said amount shall be deposited in any one of the nationalised bank as directed by the Tribunal and the guardian of the claimant is permitted to withdraw the interest accrued thereon once in three months directly from the bank, till the claimant attains majority.

6. This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1. The Principal Subordinate Judge,
The Motor Accidents Tribunal , Tenkasi.

2. The Record Keeper, Vernacular Section, (2 copies)

Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.R.J.Karthick, Advocate, SR.No.91656

+1cc to Mr.P.Prabhakaran, Advocate, SR.No.91554

Arul

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RL/6C/2P/JC/SAR4/20/4/2018

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