



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the Twenty Seventh day of November Two Thousand Seventeen

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PRESENT

The Hon`ble Mrs.Justice V.BHAVANI SUBBAROYAN

CMP(MD) No.10853 of 2017

IN

CMA(MD) No.39 of 2008

MINOR R.ARAVIND
REP.BY HIS FATHER AND
NATURAL GUARDIAN,

... PETITIONER/APELLANT

Vs

MANAGING DIRECTOR
TAMILNADU STATE TRANSPORT CORPORATION,
BYE PASS ROAD, DINDIGUL DISTRICT.

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to discharge me as a representative capacity form the above Civil Miscellaneous Appeal i.e. CMA(MD)No. 39 of 2008 on the file of this Honourable Court.

Prayer in CMA(MD). 39/ 2008 :

To set aside the Judgment and Decree dated 07.01.2005 and made in MCOP.1333/2002 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate) Madurai and thus render justice.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.C.JEGANATHAN for M/S.VEERA ASSOCIATES, Advocate for the petitioner and of MR.M.PRAKASH, Advocate for the Respondent the court made the following order:-

The learned counsel for the petitioner submitted that the minor R.Aravind was represented by his father and natural guardian, namely, Rajangam, met with an accident on 08.11.2000 at Theni District. While he was 4 years old, his father sought for compensation and filed M.C.O.P petition seeking payment of compensation against the respondent herein and the Tribunal has awarded only a sum of Rs.72,000/- as compensation.

2.Against the award, his father has preferred an appeal in C.M.A. (MD) NO.39 of 2008 before this Court, seeking for enhancement of the award of compensation and other reliefs.



3. At present the petitioner's age is about 20 years. Hence he prays to discharge the father who filed the petition in representative capacity in C.M.A.(MD).No.39 of 2008.

4. The learned counsel for the respondent has filed the counter affidavit stating that the petitioner was aged about 5 years at the time of accident. In restoration with delay condone petition, the petitioner stated that he was aged about 12 years at the time of accident. The petitioner enclosed the school leaving certificate and it reveals his date of birth was 15.01.1997 and hence he was aged about 3 years at the time of accident. Hence the veracity of petitioner's affidavit is not correct at present and this could not be accepted. He further contended that the petitioner seeking the higher claim based on the latest Judgment with crucial manner and unreliable reasons after 6 years from the date of dismissal, is against the principle laid down by the Hon'ble Apex Court in various cases. Hence he prayed to this Court to dismiss the major declaration petition with discharge petition.

5. The reasons stated by the learned counsel for the respondent supra is not a acceptable one since this Court has found proper reason has been submitted by the father of the petitioner in the earlier application in C.M.P(MD).No.10852 of 2017 that his son was taking treatment due to the fracture of public bae of pelvis fracture of pereneal portion urine and fracture of pelvic and hence the petitioner needs an assistant for day to day life and in such circumstances, his father took the petitioner to Kerala for natural treatment and hence they could not approach this Court in time.

6. Considering the submission made by the learned Counsel for the petitioner, this petition is allowed.

sd/-
27/11/2017

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO
THE CHIEF JUDICIAL MAGISTRATE
MOTOR ACCIDENT CLAIMS TRIBUNAL,
MADURAI

ORDER
IN
CMP(MD) No.10853 of 2017
IN
CMA(MD) No.39 of 2008
Date :27/11/2017



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