



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

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C.M.A(MD) No.1593 of 2013
and
M.P(MD) No.1 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
(Kumbakonam Division II)
Periyamilaguparai
Trichy-1

... Appellant/Respondent

vs.

Minor A.Jerald Richard
represented by his father and next friend
D.Antony Adaikalaraj

...Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 08.10.2012 passed in M.C.O.P.No.1997 of 2010 on the file of the Motor Accident Claims Tribunal/ IInd Additional District Court, Triuchirappalli.

For Appellant : Mr.P.Prabhakaran

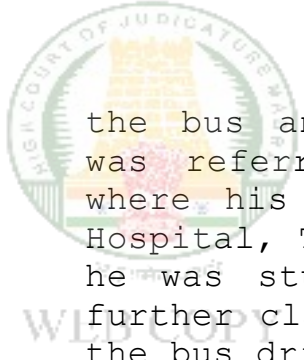
For Respondent : Mrs.T.Kokilavane
for Mr.C.Padmaraj

JUDGMENT

The Transport Corporation is the appellant. The first respondent/claimant namely, Minor.A.Jeralad Richard Who was 15 years old at the time of the accident sought for a sum of Rs.6,00,000/- as compensation for the injuries suffered by him in the accident that occurred on 10.08.2010.

2.The Tribunal after analysing the evidence on record both oral and documentary had concluded that the claimant is entitled to Rs.2,00,000/- towards compensation for the injuries suffered by him in the accident. Aggrieved over the same, the Transport Corporation is on appeal.

3.According to the claimant, he was a passenger in the bus belonging to the respondent corporation proceeding from Ariyamangalam to Triuchirappalli. While the bus was plying near the Ariyamangalam Ukkadai Uyyakundam Vaikkal, as there was a diversion because of road repair work that was being carried out, the bus turned the bus suddenly and damaged the barricade. As a result of the which, the petitioner/claimant and other passengers of the bus lost their balance fell down inside



the bus and suffered grievous injuries. The petitioner/claimant was referred to the Government Head Quarters Hospital, Trichy where his spleen was removed and he was referred to the ABC Hospital, Trichy for further treatment. According to the claimant, he was studying 10th standard at the time of accident. It is further claimed that the traffic police registered a case against the bus driver in Crime No.270/10, under Sections 279 and 337 IPC.

4.The respondent corporation resisted the claim. While admitting the accident it was claimed that the accident had occurred because the driver lost his control. The bus ran through the iron fence of the barricade and caused the accident. However, it was claimed that the amount of compensation awarded is highly excessive and the nature of injuries was also denied.

5.In view of the fact that the respondent corporation had admitted the fact of the accident as well as the fact of the injured was a bona fide passenger in the bus, the Tribunal held that the accident occurred only due to the rash and negligent driving of the driver of the respondent Corporation.

6.It appears that a plea was taken at that time that the minor claimant was travelling near the foot board but the said plea was not raised in the counter affidavit filed by the respondent Corporation and therefore, the Tribunal rejected the said contention. Therefore, I do not think that the injured minor claimant can be said to have contributed to the accident.

7.So far as the quantum of compensation is concerned, the injuries are evident from the discharged summary marked as Ex.P5 and Ex.P10. From the said documents, it is seen that the claimant had suffered fracture of his ribs and his spleen was removed which is according to PW2, has resulted in 47% disability.

8.Considering the age of the minor, the Tribunal has fixed a sum of Rs.2,000/- for each percentage of disability and has awarded a sum of Rs.94,000/- towards disability, Rs.20,000/- towards pain and sufferings, Rs.72,000/- for medical expenses based on Ex.P6 and Ex.P12, Rs.14,000/- for transport, diet and nourishment. In all, the Tribunal has awarded a sum of Rs.2,00,000/- as compensation.

9.Mr.P.Prabakaran, learned counsel appearing for the appellant corporation would contend that the award of Rs.94,000/- towards permanent disability is excessive and the injuries cannot cause ever lasting permanent disability which are curable in nature.

10.Mrs.T.Kokilavani, learned counsel appearing for the respondent would contend that the compensation has been awarded for the injuries suffered by him in the accident and not for future loss of income or under any other head. The percentage of disability fixed by the Doctor has been accepted and the evidence of the Doctor is also reliable inasmuch as the same has not been discredited in any manner by cross examination. Therefore, the <https://hcservices.mca.gov.in/hcservices/> is justified in awarding a sum of Rs.94,000/- towards disability and the award of the Tribunal other heads also cannot be said to be on the higher side.



11. In view of the above, I find that the compensation awarded by the Tribunal is just and reasonable considering the nature of the injuries suffered by 15 years old minor boy. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the award passed by the Motor Accident Claims Tribunal/II Additional District Court, Tiruchirappalli. in M.C.O.P.No.1997 of 2010, dated 08.10.2012. No costs. Consequently, M.P(MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar(CS-II)

/ True Copy /

Sub Assistant Registrar(C.S.)

To

1.II Additional District Judge,
The Motor Accident Claims Tribunal, Tiruchirappalli.

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

+1cc to M/S.P.PRABHAKARAN, Advocate SR.No.60087

+1cc to M/S.C.PADMARAJ, Advocate SR.No.60069

rmi/vsg

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