

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.11.2018
CORAM:
THE HONOURABLE MRS.JUSTICE R. HEMALATHA
C.M.A.No.2338 of 2012

Minor Kamaraj
Rep. by Father/Guardian Kathavarayan
... Appellant/Petitioner

..Vs..

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram.
...Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award passed by the Principal Subordinate Judge, Vridhachalam in M.C.O.P.No.276 of 2009 dated 09.12.2011.

For Appellant : Mr.S.Udayakumar

For Respondent : Mr.K.J.Sivakumar

JUDGMENT

The appellant is the claimant in M.C.O.P.No.276 of 2009 dated 09.12.2011, on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Vridhachalam.

2.The appellant/claimant was a student aged about 16 years on the date of the accident. On 05.08.2009, when the appellant/claimant was travelling in a bus bearing Registration No. TN 32 N 1400, the driver of the bus took the bus rashly and negligently, as a result of which, the appellant/claimant was thrown out of the bus and sustained injuries all over his body. He was immediately rushed to the Government Hospital, Vridhachalam. Subsequently, he took treatment in Government Hospital, Pondicherry.

3.According to the appellant/claimant, the rash and negligent driving of the driver of the Tamil Nadu State Transport Corporation was the cause of the accident and that they are liable to pay compensation of Rs.2,00,000/- to him.

4.The learned Principal Subordinate Judge, Vridhachalam, awarded a compensation of Rs.1,19,365/- for the injuries sustained by the appellant/claimant. The details of calculation of the trial court is extracted hereunder:

S.No	Head	Amount granted
1.	Disability = 43%	Rs.86,000/-
2.	Loss Income	0
3.	Pain and sufferings	Rs.10,000/-
4.	Medical expenses	Rs.15,365/-
5.	Attender	Rs.3,000/-
6.	Nutritions	0
7.	Ambulance	Rs.5,000/-
Total		Rs.1,19,365/-

5.A perusal of the record shows that Dr.R.Rathina Sabapathy (P.W.2) has assessed the partial permanent disability as 43% and since the appellant/claimant was a student on the date of the accident, this court opines that the compensation of Rs.86,000/- for partial permanent disability is very meager and therefore, the compensation under the head disability is enhanced to 43% x 3000 = Rs.1,29,000/-. Apart from this, a sum of Rs.15,365/- is awarded towards medical expenses. It is also seen from the records that the trial court did not award any amount towards future medical expenses. The appellant/claimant has suffered a fracture on his leg and his partial permanent disability was assessed at 43%. Therefore, in the interests of justice, a sum of Rs.5,000/- is awarded towards future medical expenses and also a sum of Rs.10,000/- and Rs.5,000/- are awarded towards pain and sufferings and attenders charges. Therefore, the appellant/claimant is entitled to the following award amount:

S.No	Head	Amount granted
1.	Disability	Rs.1,29,000/-
2.	Medical expenses	Rs.15,365/-
3.	Future medical expenses	Rs.5,000/-
4.	Pain and sufferings	Rs.10,000/-
5.	Attenders charges	Rs.5,000/-
Total		Rs.1,64,365/-

6. In the result,

(i) The appeal is allowed and a sum of Rs.1,64,365/- (Rupees one lakhs sixty four thousand and three hundred and sixty five only) is awarded to the appellant/claimant as compensation together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The Managing Director, Tamil Nadu State Transport Corporation is directed to deposit the enhanced compensation amount along with

interest to the credit of M.C.O.P.No.276 of 2009 on the file of the Motor Accidents Claims Tribunal, the Principal Subordinate Judge, Vridhachalam, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the appellant/ claimant is entitled to withdraw the entire amount. No order as to costs.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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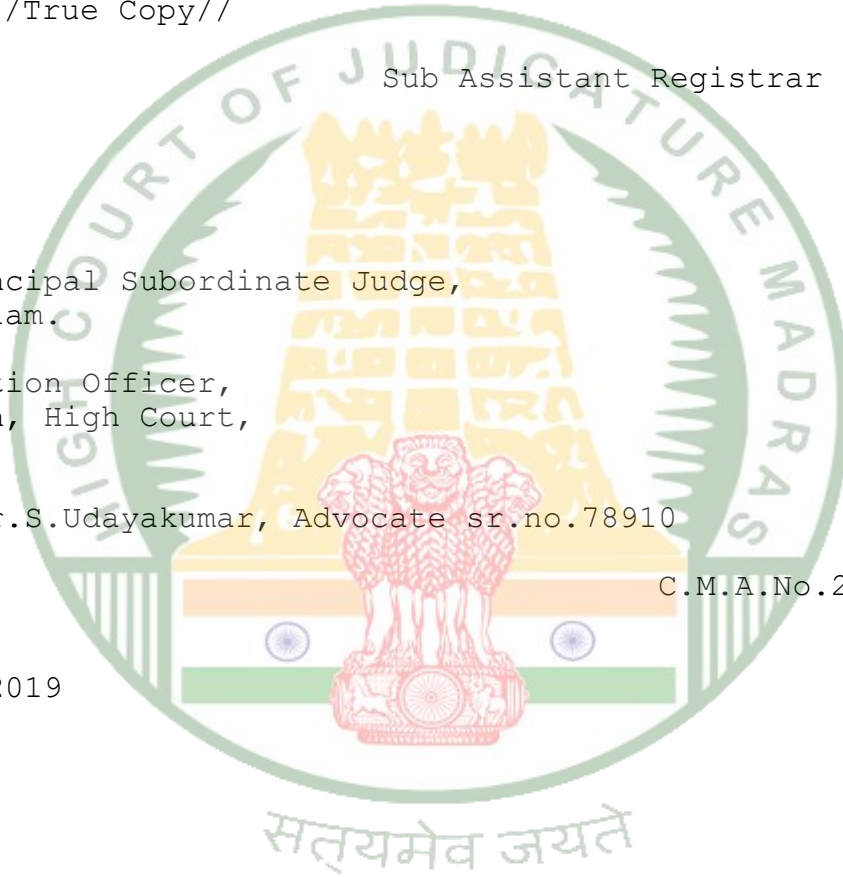
1.The Principal Subordinate Judge,
Vridhachalam.

2.The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.S.Udayakumar, Advocate sr.no.78910

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