



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2018

CORAM

THE HONOURABLE MS. JUSTICE ABDUL QUDDHOSE

C.M.A.No.372 of 2011

Managing Director
Tamil Nadu State Transport Corporation Ltd,
Coimbatore Division I,
37, Mettupalayam Road,
Coimbatore.

... Appellant/2nd Respondent

..Vs..

1.Minor.N.Prabhu
Rep by his guardian & Mother N.Rathina

2.C.Parthasarathy

...Respondents/Claimant & 1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the fair and decreetal order made in M.C.O.P.No.895 of 2008, dated 10.06.2010 on the file of Motor Accident Claims Tribunal (I Additional Subordinate Judge), Coimbatore.

For Appellant : Mr.S.Swaminathan

For Respondents: Mr.E.Venkatesan for R1
R2 - Given up

J U D G M E N T

The instant appeal has been filed by the Transport Corporation challenging the award dated 10.06.2010 passed by the Motor Accident Claims Tribunal (I Additional Subordinate Judge), Coimbatore in M.C.O.P.No.895 of 2008.

2. The brief facts leading to the filing of the instant appeal are as follows.

(i). The first respondent sustained injuries on 10.1.2008, as a result of an accident caused by a bus bearing registration



No.TN-33-N-1489 owned by the appellant Transport Corporation.

(ii) The first respondent preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.895 of 2008, seeking a compensation of Rs.4,50,000/-.

(iii) The Motor Accident Claims Tribunal, by its award dated 10.06.2010, in MCOP.No.895 of 2008, directed the appellant to pay the first respondent a sum of Rs.1,93,503/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.

(iv) Aggrieved by the award dated 10.06.2010 passed in MCOP.No.895 of 2008, the instant appeal has been filed by the Transport Corporation.

3. Heard, Mr.S.Swaminathan, learned counsel for the appellant and Mr.E.Venkatesan, learned counsel for the first respondent. The second respondent remained exparte both before the Tribunal as well as this Court.

4. According to the learned counsel for the appellant, the tribunal ought to have held that the first respondent was also responsible for the accident and liable for contributory negligence. He drew the attention of this Court to the Judgment of the criminal Court which was marked as Ex.R1 before the Tribunal, wherein, the driver of the bus was acquitted by the Court.

5. According to him, the Tribunal has not duly considered the said Criminal Court Judgment before passing an award against the appellant Transport Corporation. Further the learned Counsel for the appellant would contend that the compensation awarded to the first respondent under the heads pain and suffering and extra nourishment charges are excessive.

6. Per contra, the learned counsel for the first respondent would submit that the first respondent was aged 17 years at the time of the accident and was a student and he sustained pelvic fracture and suffered 32.5% disability as a result of the accident caused by a bus owned by the appellant Transport Corporation.

7. Considering the age of the first respondent and nature of injuries sustained by him, the learned counsel for the first respondent would submit that the compensation awarded by the Tribunal under the impugned award is a just compensation.

8. This Court, after having considered the materials available on record and after examining the impugned award and after hearing the submissions of the respective counsels, observes the following:

(a) Admittedly, FIR was registered only against the driver



of the bus owned by the appellant Transport Corporation. Even though, the driver of the bus was ultimately acquitted by the judgment of the criminal Court which is marked as Ex.R1, it cannot be conclusively held for the purpose of deciding a Motor Accident Claim that the driver of the bus owned by the appellant Transport Corporation is not at fault. Further, a Criminal Court Judgment is not binding on a Motor Accident Claims tribunal which will have to independently assess liability, negligence and the quantum of compensation.

(b) Based on the oral and documentary evidence let in by the appellant as well as the respondents, the Tribunal has given a categorical finding that only due to the rash and negligent driving by the driver of the bus owned by the appellant Transport Corporation, the accident had happened, which resulted in injuries sustained by the first respondent.

(c) In a criminal case, the prosecution will have to prove the case beyond reasonable doubt, whereas, in a Motor Accident Claim, the same level of evidence is not required and the Motor Accident Claims tribunal will have to give an independent finding.

(d) The nature of injuries sustained by the first respondent as a result of the accident caused by the bus owned by the appellant Transport Corporation has not been disputed by the Appellant before the Tribunal.

(e) Admittedly, the first respondent has sustained pelvic fracture and he was a student, aged only 17 years at the time of accident. Pelvic fracture would have certainly caused pain and suffering to the first respondent and he would have certainly required extra nourishment to recover from the said injury.

(f) Considering all these factors, the Tribunal has awarded Rs.2000/- towards transportation cost, Rs.20,000/- towards extra nourishment, Rs.5,000/- towards damages to clothing, Rs.81,003/- towards medical expenses, Rs.25,000/- towards pain and suffering and Rs.65,000 towards disability and in all, put together, a sum of Rs.1,93,503/- was awarded as compensation to the first respondent under the impugned award.

9. In the considered view of this Court, the compensation awarded under the impugned award is a just compensation and hence the same does not call for any interference by this Court. In the result, there is no merit in the appeal and the same is dismissed.

10. In fine,

(i) the appeal is dismissed. No costs. Consequently, connected M.P.No.1 of 2011 is closed.

(ii) the compensation awarded by the tribunal is confirmed.

(ii) The appellant transport corporation is directed to deposit the amount awarded by the tribunal along with interest to the credit of MCOP, after adjusting the amount already



deposited, within a period of four weeks from the date of receipt of a copy of this order.

(iii) On such amount being deposited, the 1st respondent is permitted to withdraw the same on filing an appropriate application.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

msr/smv

To

1.The Motor Accident Claims Tribunal
(I Additional Subordinate Judge), Coimbatore.

Copy to:

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

+1cc to Mr.I.Venkatesan, Advocate sr.no.68362
+1cc to Mr.S.S.Swaminathan, Advocate sr.no.68993

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nr 04/12/2018