

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.221 of 2017 and
C.M.P.No.1464 of 2017

The Managing Director,
Karnataka State Road Transport Corporation,
Kolar Division, Kolar, Karnataka. ... Appellant/Respondent

-vs-

Kaveramma ..Respondent/Petitioner
(Being mentally retarded represented by
her next friend and son Mr.Ganesh)

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988 against the Decree and Judgment made
in M.C.O.P.No.173 of 2014 dated 30.11.2015 on the file of the
Motor Accidents Claims Tribunal (Additional District Judge) at
Hosur.

For Appellant : Mr.T.Thiyagarajan
For Respondent : No appearance

J U D G M E N T

[Judgment of the Court was delivered by
R.SUBRAMANIAN, J.]

The Karnataka State Transport Corporation, which suffered
an Award for Rs.15,03,970/- for the injuries sustained by the
respondent in the motor accident that occurred on 07.07.2013
is the appellant. Though the question of negligence was also
sought to be raised, it is seen from the Award of the Tribunal
that the respondent and her son had suffered injuries in the
accident. Two claim petitions were filed in M.C.O.P.Nos.172
and 173 of 2014. By a common Award dated 30.11.2015, the
Tribunal held that negligence was on the part of the driver of
the bus belonging to the appellant Corporation. The appellant
Corporation has not challenged the Award in M.C.O.P.No.172 of
2014 and the same has become final. Hence, the question of
negligence cannot be re-agitated in this appeal.

2. On the quantum, Mr.T.Thiyagarajan, learned counsel for
the appellant Corporation would contend that the amounts
awarded towards Physiotherapy at Rs.1,00,000/- and for future
Medical Expenses at Rs.2,00,000/- are on the higher side.

3. The discharge summary issued by NIMHANS, Bangalore has been produced as Ex.P9. A perusal of the same shows that the respondent had suffered serious head injuries and she has undergone at least three surgeries for removal of the accumulated blood in her brain. This itself establishes that she needs continued treatment as well as physiotherapy in order to recoup and recover.

4. In view of the above, we do not find that the Award could be termed as excessive. Considering the nature of injuries as well as the fact that the respondent is unable to speak and lost her memory permanently, we do not propose to interfere with the Award of the Tribunal.

5. For the foregoing reasons, the appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed. In view of the dismissal of the appeal, the appellant is directed to deposit the remaining amount within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent is permitted to withdraw the same.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

svki

To

1. The Motor Accidents Claims Tribunal
(Additional District Judge)
at Hosur.

2. Kaveramma, W/o. Venkatesappa,
C/o. Ganesan, Yezhuvapalli Village,
Nallur P.O., Hosur Taluk,
Krishnagiri District, Tamil Nadu.

1 cc to Mr. T. Thiyagarajan, Advocate Sr.59953
+ 1 cc to Mr. Mukund R. Pondiyan, Advocate Sr.59857

CMA No.221 of 2017

GJ(CO)
EU(31/10/2018)