

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving the Order	Date of Pronouncing the Order
07.12.2017	03.04.2018

Coram :

The Honourable Mrs. Justice S. RAMATHILAGAM

C.M.A.No.971 of 2006

Minor Varadharaj
rep. by his next friend father
Sivakumar
S/o. Subramani ...Claimant/Appellant

Versus

Tamil Nadu State Transport
Corporation rep. by its
Managing Director,
Dharmapuri. ...Respondent/Respondent

This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree by which an award is passed in M.C.O.P.No.1133/02 on the file of the Additional District Judge, Tirupattur (FTC) Vellore District dated 31.03.2004 with a prayer to enhance the award for a further amount of Rs.80,000/-.

For Appellant : Ms. M. Malar

For Respondent : Mr. S.V.Vasanthakumar

J U D G M E N T
सत्यमेव जयते

This Civil Miscellaneous Appeal has been preferred against the decree and award passed in M.C.O.P.No.1133 of 2002 on the file of the Additional District & Sessions Judge, Tirupattur (Fast Track Court), Vellore District.

2. The proved facts of the claimant application is that on 03.09.1998 at about 10:15 a.m., near Mudali maduvu main road in between Tirupattur to Vaniyambadi, the bus bearing Registration No.T.N.29/N0058 belonging to the respondent Corporation was driven by its driver in a rash and negligent manner, towards Vaniyambadi from Tirupattur, and dashed against the appellant, who was walking on the extreme left side of the road. Due to

the impact, the petitioner sustained grievous injuries on his head, left hand, left leg foot and all over the body and immediately taken to the Government Hospital, Tirupattur and again referred to Government Hospital, Vellore and further, the injured person sustained permanent disability and the petitioner was also suffered heavy medical expenses and transport expenses and the fracture in the skull also caused the petitioner, a severe impact and hence, the petitioner was claiming a sum of Rs.2,00,000/- (Rupees Two Lakhs) as compensation.

3. The Tribunal fixed the liability on the respondent.

4. After analyzing the evidence and also the documents filed by both the claimant/injured and the respondent, the tribunal has awarded a sum of Rs.20,000/- and interest at 6% per annum. The claimant/appellant aggrieved against the award has come forward with this appeal by stating that the award given for medical expenses as a sum of Rs.5,000/- and also a sum of Rs.15,000/- only for Pain and Suffering. When the appellant sustained fracture on right perital bone and fracture on third and fourth Meta Torsel bones, which are very grievous in nature and the appellant has also stated that the non-examination of Doctor will not vitiates the claim. Further, the appellant has stated that appellant has lost his future because of the injury sustained by him, due to which, he cannot walk and sit as he was before the accident.

5. The injury sustained by the person proves the speed of the vehicle is analyzed by the Tribunal. Ex.A.2 is the Wound Certificate issued by the Government Hospital, Tirupattur which shows that the injured person sustained fracture on his right perital bone and fracture on third and fourth meta torcel bones and the opinion given by the Doctor is also that the injuries are grievous in nature. Immediately, after the accident, the injured person was taken to the Government Hospital. After verifying the age of the injured person, the nature of injury and also the pain and suffering, the Tribunal has awarded a sum of Rs.15,000/- for pain and suffering and Rs.5,000/- for the medical and incidental expenses are considered to be at the lower site.

6. While considering the fact that the injured person is only 5 years old and also the injury sustained by him is of grievous nature, which is very much proved by the Wound Certificate i.e., Ex.A2. The award granted for the Grievous Injury, Pain and Suffering and also the Medical Expenses are very meager and therefore, the sum of amount have to be modified and enhanced.

7. Considering the nature of injury which is grievous in nature, a sum of Rs.10,000/- is awarded for the injured person under the head, Grievous Injury; a sum of Rs.15,000/- for the Pain and Suffering that would have been incurred, and for the Medical expenses, Transport charges and Nutritious Food, a sum of Rs.40,000/- is awarded.

8. The amount of compensation claimed is Rs.2,00,000/- and the amount awarded by the Tribunal is Rs.20,000/-. The amount awarded by the Tribunal is mentioned hereinbelow:

S.Nos.	Compensation heads	Amount of Compensation
1	Pain and Suffering	Rs.15,000/-
2	Medical and Incidental Expenses	Rs.5,000/-
	Total	Rs.20,000/-

9. Hence, considering the tender age of the injured person, the nature of injury sustained, pain and suffering, the award of compensation is modified and enhanced as follows:

S.Nos.	Compensation heads	Amount of Compensation
1	Grievous Injury	Rs.10,000/-
2	Pain and Suffering	Rs.15,000/-
3	Medical Expenses, Transport Charges and Nutritious Food	Rs.40,000/-
	Total	Rs.65,000/-

10. Accordingly, this Civil Miscellaneous Appeal shall stand allowed and the award of compensation Rs.20,000/- (Rupees Twenty Thousand) passed by the Additional District & Sessions Judge, Tirupattur (Fast Track Court), Vellore District in M.C.O.P.No.1133 of 2002 dated 31.03.2004 is enhanced to Rs.65,000/- (Rupees Sixty Five Thousand). No costs. The Transport Corporation/respondent herein is directed to deposit the enhanced compensation amount along with interest at 7.5% per annum from the date of claim petition till the date of deposit, less the amount, if any, already deposited to the credit of the claim petition in M.C.O.P.No.1133 of 2002 on the file of the Additional District & Sessions Judge, Tirupattur (Fast Track Court), Vellore District within a period of four weeks from the date of receipt of a copy of the judgment. On such deposit being made, the Tribunal shall deposit the amount of the minor

claimant in fixed deposit in any one of the Nationalized Banks, till he attain majority and the interest accrued thereon shall be withdrawn by the guardian of the minor claimant once in three months, directly from the Bank. The claimant shall pay the necessary court fee for the enhanced compensation amount before receiving the copy of this judgment.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mrr

To

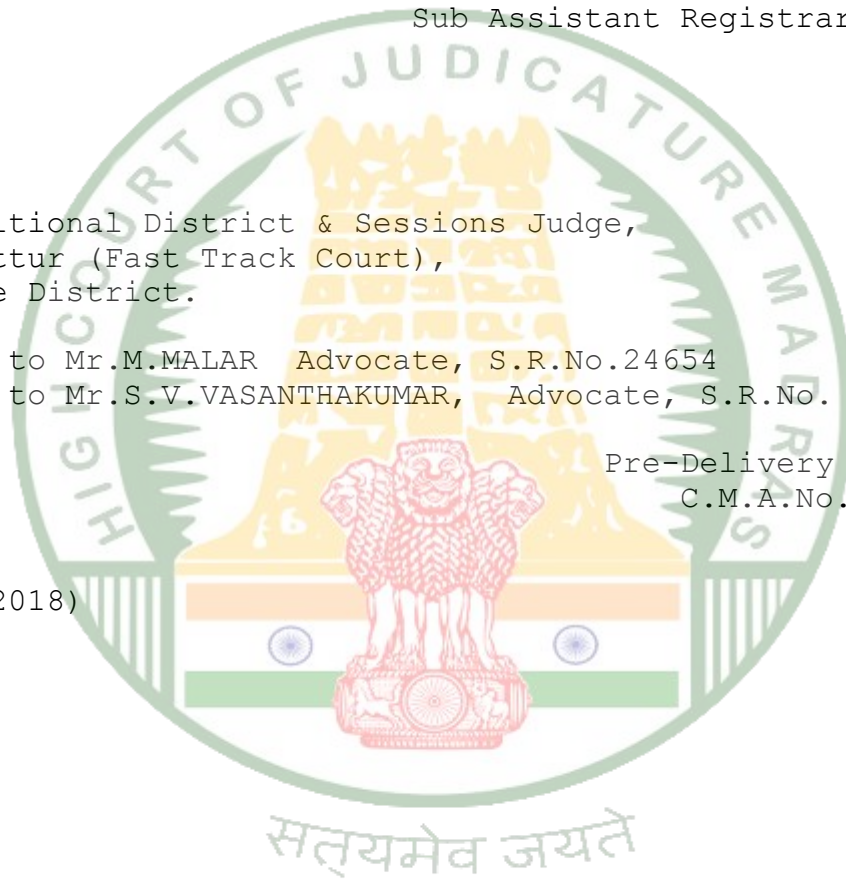
1.The Additional District & Sessions Judge,
Tirupattur (Fast Track Court),
Vellore District.

+1cc to Mr.M.MALAR Advocate, S.R.No.24654

+1cc to Mr.S.V.VASANTHAKUMAR, Advocate, S.R.No. 24543

Pre-Delivery Judgment in
C.M.A.No.971 of 2006

SVI(CO)
TR(10/05/2018)



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