

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3439 of 2008

and

M.P.No.1 of 2008

The Managing Director,
Tamilnadu State Transport
Corporation Ltd., Vellore .. Appellant/2nd Respondent

Vs.

1. Minor Chithra 1st Respondent/Petitioner

2. G. Thanigaimalai (Given up)2nd Respondent/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the decree and Judgment in M.A.C.T.O.P.No.565 of 1999 dated 05.07.2007 passed by the Motor Accident Claims Tribunal cum Subordinate Judge, Vellore.

For Appellant : Mr.N. Anand

For R1 : Mr.M. Sivakumar

: R2 Given up

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the decree and Judgment in M.A.C.T.O.P.No.565 of 1999 dated 05.07.2007, passed by the Motor Accident Claims Tribunal cum Subordinate Court, Vellore.

2. The appellant is the Tamilnadu State Transport Corporation Limited and the first respondent herein is the claimant and the second respondent herein is the driver of the bus.

3. The brief facts, which are necessary for the disposal of this appeal is that on 20.02.1998 at about 3.00 p.m, when the minor claimant along with her mother was crossing, Odugathur to Vellore road, the Transport corporation bus bearing Registration No.N-T-N-23-N-1142-I came behind the claimant and dashed against her. Due to the impact, the claimant sustained grievous injuries and lost her left leg. At the time of the accident, the injured was minor child aged

about 3 years, therefore, the mother of the injured has filed a claim petition in M.C.O.P.No.565 of 1999 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Vellore, claiming a sum of Rs.70,000/- as compensation.

4. Before the Tribunal, on behalf of the claimant, mother of the injured/claimant was examined herself as P.W.1 and Doctors were examined as P.Ws.2 and 3 and six documents were marked as Exs.P1 to P6. On the side of the respondents before the Tribunal, no oral evidence was examined and no documentary evidence was marked.

5. PW.1 in her oral evidence has stated about the negligence on the part of the driver of the appellant/transport corporation bus. P.W.2/Dr.Prinjova, in his evidence, has stated that the injured/claimant was admitted in C.M.C hospital and due to the accident, bones in the leg was broken to the claimant. PW.3/Dr.Shanmugam, who issued disability certificate for the injured, in his evidence has stated that due to the accident, the injured has lost her left leg and the same was amputated. Ex.P1 is the F.I.R and Ex.P2 is the wound certificate. Ex.P3-medical receipts show about the amount incurred for treatment.

6. The Tribunal, after taking into consideration both oral and documentary evidence adduced by the claimant, has awarded a sum of Rs.1,31,000/- as compensation under the following heads.

S.No	Particulars	Amount
1	For Disability and loss of income	Rs.1,12,500/-
2	Pain and suffering	Rs.10,000
3	Transportation and Nourishment	Rs.7,250/-
4	Medical Expenses	Rs.1,250/-
	Total	Rs.1,31,000/-

7. Challenging the same, the appellant/Transport Corporation has come forward with this appeal.

8. The learned counsel appearing for the appellant/Transport Corporation would contend that when the minor child suddenly crossed the road, the accident had occurred and as a result of which, the claimant fell down and sustained injuries and therefore, the appellant is not liable to pay compensation to the claimant and hence, prays for allowing of this appeal.

9. The learned counsel appearing for the first respondent/claimant would contend that the award passed by the

Tribunal is just and reasonable one. It is further contended that the Tribunal, after going through the evidence adduced before it, has come to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the transport corporation bus and hence, he prays for dismissal of this appeal.

10. Heard both sides and perused the materials available on record.

11. It appears from the judgment of the Tribunal that due to the accident, the injured has lost her left leg and the same was amputated and hence, the Tribunal, considering the age of the injured/claimant, passed a reasonable award. Further, the rash and negligent driving on the part of the driver of the transport corporation bus was not disputed hence, the same is hereby confirmed.

12. In the result,

[i] the civil miscellaneous appeal is dismissed and the Judgment and Decree passed by the Motor Accident Claims Tribunal, Sub-Ordinate Court, Vellore, in M.A.C.T.O.P. No. 565 of 1999, is hereby confirmed.

[ii] If the award amount with accrued interest has not been deposited, the appellant/Transport corporation is directed to deposit the entire award amount with accrued interest at the rate of 6% per annum from the date of claim petition, to the credit of M.C.O.P.No.565 of 1999 on the file of the Motor Accidents Claims Tribunal, (Sub Court), Vellore, within a period of eight weeks from the date of receipt of a copy of this Judgment.

[iii] On such deposit, the mother of the first respondent herein is permitted to withdraw the amount, by way of filing proper application before the Tribunal and deposit the same in any one of the Nationalised Bank till she attains majority, however the mother of the minor claimant is permitted to withdraw accrued interest once in six months.

[iv] No costs.

[v] Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

To.

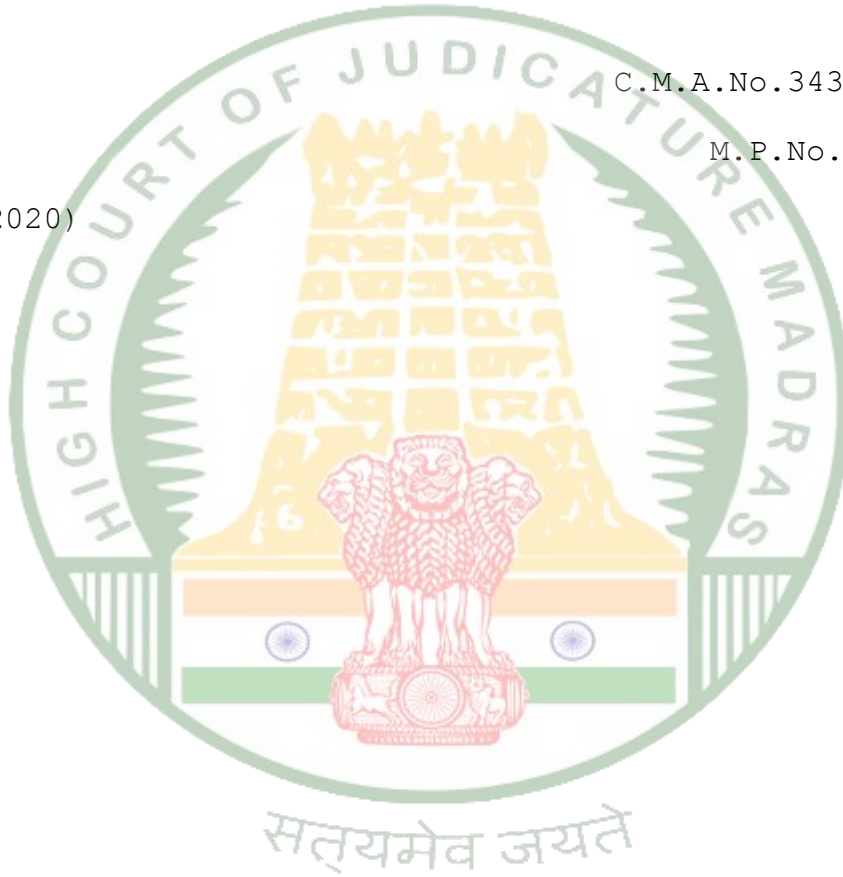
1. The Motor Accident Claims Tribunal,
Subordinate Judge, Vellore.
2. The Section Officer,
V.R. Section,
High Court, Madras - 104.

+1cc to Mr.N.Anand, Advocate, S.R.No. 32147

+1cc to Mr.M.Sivakumar, Advocate, S.R.No. 32146

NR(CO)
GN(10/02/2020)

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