

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2019

CORAM

THE HON'BLE MR.JUSTICE.R.MAHADEVAN

C.M.A.No.1505 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Rengapuram, Vellore. Appellant/Respondent

Vs.

Minor Arulvel
rep.by his mother and next friend
Saraswathi Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the Decree and Judgment made in M.A.C.T.O.P.No. 232 of 2001 dated 22.09.2008 passed by the Motor Accident Claims Tribunal, Cheyyar, Tiruvannamalai District.

For Appellant : Mr.N.Anand

For Respondent : Mr.G.Paranthaman

J U D G M E N T

This appeal is filed by the appellant Transport Corporation as against the judgment and decree made in M.A.C.T.O.P.No.232 of 2001 dated 22.09.2008 passed by the Motor Accident Claims Tribunal, Cheyyar, Tiruvannamalai.

2.The respondent herein filed M.C.O.P.No.232 of 2001 before the Tribunal, claiming a sum of Rs.2,00,000/- as compensation for the injuries sustained by him in an accident that took place on 11.05.2001. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident had occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation and directed the appellant-Transport Corporation to pay a sum of Rs.65,000/- with interest at the rate of 7.5% per annum from the date of petition, as compensation to the respondent/claimant. Aggrieved over the same, the appellant/Transport Corporation has come out with the present appeal

challenging the liability fastened on them and quantum of compensation awarded by the Tribunal.

3.The learned counsel appearing for the appellant/Transport Corporation contended that when the respondent alone has invited the accident, the Tribunal has erred in fixing negligence on the part of driver of the bus, relying upon the evidence of P.W.1, mother of the claimant. He further contended that the Tribunal failed to properly appreciate the evidence of R.W.1/Conductor of the appellant bus. He also contended that the award of Rs.65,000/- as compensation for the simple injuries, is very excessive. Stating so, he prayed for setting aside the award of the Tribunal.

4.Per contra, the learned counsel appearing for the respondent submitted that the Tribunal has awarded the compensation after verifying the relevant documents such as, the disability certificate assessed by the Doctor at 30%. The learned counsel also submitted that the Tribunal has awarded the compensation, based on the documents available on record, and hence the same does not require any interference.

5.Heard the learned counsel for the appellant/ Transport Corporation as well as the respondent and perused the materials available on record.

6.It is seen that the conductor of the bus has been examined as R.W.1 and he deposed that the driver of the bus was not responsible for the accident, but during the cross examination he deposed that the F.I.R was registered only as against the driver of the bus and he was temporarily suspended by the Department for this incident. The Tribunal, by giving valid reasons held that the accident had occurred only due to the rash and negligent driving of driver of the bus belonging to the appellant-Transport Corporation, which finding this Court is not inclined to interfere.

7.From the materials on record, it is seen that based on Ex.P.2 to Ex.P4 /hospital records and Ex.P7 to Ex.P9/medical bills, the Tribunal has awarded Rs.26,000/- towards fractures and injuries and Rs.5,000/- towards pain and suffering. Considering Ex.P.5 and Ex.P.6/transport bills, the Tribunal has awarded Rs.4,000/- towards Transportation charges. Placing reliance on Ex.P10 disability certificate, the Tribunal has also awarded a sum of Rs.30,000/- towards 30% disability. This Court is of the opinion that the findings rendered on quantum by the Tribunal are based on exhibits marked coupled with evidence by injured himself and the Doctor. In the absence of any contra evidence, this Court finds no reasons to interfere with such findings and the same is hereby confirmed.

8.In the result, confirming the award of the Claims Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant/Transport Corporation shall deposit the entire compensation amount, along with interest and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. The minor respondent would have attained majority by now. Hence, on such deposit being made, the claimant is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CO MDU)

//True copy//

Sub Assistant Registrar

smn/srk

To

1. The Motor Accidents Claims Tribunal, Cheyyar, Tiruvannamalai.
2. The Section Officer, V.R. Section, High Court, Madras.

+1cc to Mr.N.Anand, Advocate SR.No.65572

C.M.A.No.1505 of 2009

PM(CO)
GMY(18/08/2020)

WEB COPY