

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2019

CORAM:

THE HON'BLE MR.JUSTICE.R.MAHADEVAN

C.M.A.NO.171 OF 2009

AND

M.P.NO.1 OF 2009

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram. ... Appellant/Respondent

Versus

Minor Sathish
(rep by father and
guardian Srinivasan) ... Respondent/Petitioner

Prayer :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award made in M.C.O.P.No.190 of 2007 dated 29.07.2008 on the file of the Additional District Judge, Motor Vehicles Accident Claims Judge, and F.T.C. No.II Tindivanam.

For Appellant : Mr.K.J.Sivakumar

JUDGMENT

This Civil Miscellaneous Petition has been filed by the appellant against the award made in M.C.O.P.No.190 of 2007 dated 29.07.2008 on the file of the Motor Accident Claims Tribunal and F.T.C. No.II Tindivanam.

2.The brief facts necessary for the disposal of this case are as follows:

On 20.08.2004 at about 8.30 p.m. when the respondent herein was proceeding to the bus stop at Ananthamangalam by walk, along with his relative Nambirajan, the appellant's bus bearing Registration No: TN-32-N-1495 came in a rash and negligent manner and dashed against the respondent. Due to the said impact, the respondent herein sustained multiple fractures and admitted in the Tindivanam Government Hospital and for further

treatment he was taken to the Government Hospital, Chennai. The respondent herein, filed a claim petition in M.C.O.P.No.190 of 2007, before the Motor Accident Claims Tribunal, Additional District Judge, Tindivanam seeking a sum of Rs.1,00,000/- as compensation. The Tribunal, on consideration of the oral and documentary evidence, has awarded a sum of Rs.65,000/- payable with interest at the rate of 9% per annum from the date of petition.

3. Aggrieved over the same, the appellant Transport Corporation has come forward with the present appeal.

4. The learned counsel for the appellant/Transport Corporation has submitted that the Tribunal has erred in holding that the driver of the appellant's bus was rash and negligent in driving the bus. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5. Despite ordering notice on the respondent, there is no representation on behalf of the respondent. Hence, the appeal itself is taken up for final disposal, since the disposal of this case will not affect the respondent in any manner.

6. Before the Tribunal, the father of the injured was examined as P.W.1. He deposed that the accident had occurred due to the rash and negligent driving of the driver of the bus. The driver of the bus has been examined as R.W.1. Even though he deposed before the Tribunal that he was not responsible for the accident, admitted that criminal case is pending against him in this regard. Neither any investigation report has been filed nor any investigation officer has been examined by the Transport Corporation to prove that the driver of the bus was not negligent. In these circumstances, the Tribunal fixed the negligence on the part of the bus driver, which finding this Court is not inclined to interfere.

7. With regard to the quantum, the Tribunal has considered Exs.P.4 to Ex.P.6 and Ex.P.8 and awarded Rs.30,000/- towards injuries, Rs.10,000/- towards treatment and other expenses and Rs.5,000/- towards Extra nourishment. Considering P.W.7/disability certificate the Tribunal has awarded Rs.20,000/- towards pain and sufferings. Thus, the Tribunal has awarded a sum of Rs.65,000/- as total compensation. The amounts awarded by the Tribunal under the above heads are very reasonable and hence the same are confirmed.

8. In the result, the appeal is dismissed. Consequently, the connected miscellaneous petition is closed. No costs. The appellant/Transport Corporation is directed to deposit the compensation amount with interest and costs, as ordered by the

Tribunal, less the amount if any already deposited, within a period of four weeks from the date of receipt of copy of this judgment.

9.At this juncture, it is submitted that the minor claimant has now attained majority. Hence, on making proper application, the Tribunal is directed to transfer the deposited amount to the Savings Bank Account of the claimant/respondent herein, through RTGS.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

smn/srk

To

1. The Motor Accidents Claims Tribunal Judge,
Fast Tract Court No.II, Tindivanam
2. The Section Officer,
V.R.Section, High Court,
Madras - 104.

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.68847

CMA.No.171 of 2009
and
M.P.No.1 of 2009

NMI (CO)
CS/03/06/2020

सत्यमेव जयते

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