

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2430 of 2009
and M.P.No.1 of 2009

The Managing Director
Tamil Nadu State Transport Corporation
Division-I, 37, Mettupalayam Road,
Coimbatore. Appellant/Respondent

Vs

Minor Jaya Prakash
rep.by his guardian and
father Mariappan. Respondent/Petitioner
Tirupur

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988 against the judgment and decree dated 19.11.2007 made in MCOP No.1002 of 2004 on the file of the Motor Accidents Claims Tribunal and Additional District Judge, Fast Track Court No.IV, Coimbatore at Tiruppur.

For Appellant : Mr.S.V.Vasanthakumar

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.2,13,600/- towards compensation to the respondent, due to the injuries suffered by him in a motor vehicle accident.

2.The case in brief, is as follows:

On 24.03.2003 at about 08.45 hours, the respondent herein was travelling as a passenger in the bus bearing Reg.No.TN-37-N-0470 from Chettipalayam. When the bus stoped at Karattankadu Bus Stop, the conductor of the bus asked the respondent herein to get down from the bus, due to more number of passengers in the bus. Accordingly, the respondent got down from the bus and when he was again getting into the bus, the driver, without noticing him, took the bus suddenly in a rash and negligent manner. Due to the said impact, the respondent fell down from the bus and sustained grievous injuries and fractures. The respondent represented by his father, filed a claim petition before the Tribunal, claiming a sum of Rs.5,00,000/- as compensation. On

consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.2,13,600/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the Tribunal has failed to consider the fact that the claimant was attempting to get down from the moving bus. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.This appeal was admitted way back on 01.09.2009. It is seen that batta with petition and enclosures are due in respect of the respondent. The appellant has not taken any steps to serve papers to the other side, even at this length of time.

6.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

7.No contra evidence has been let in against the facts narrated in the First Information Report that while the claimant was getting into the bus, the driver, without noticing the same, took the bus suddenly in a rash and negligent manner and due to the same the accident had occurred. Taking note of the same, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation. This Court is not inclined to interfere with the said factual finding arrived at by the Tribunal.

8.It was put forth on the side of the claimant before the Tribunal that the claimant was studying XI Standard at the time of accident and because of the accident, he was dropped out from the school, due to which his future career has been affected. Since the injuries sustained by the claimant are of such nature that it would affect his future earning power and also considering the materials and evidence available on record, the Tribunal fixed the disability of the claimant at 35%, fixed the notional income at Rs.3,000/- per month, applied the multiplier of 16 and arrived at the sum of Rs.2,01,600/- for loss of income due to 35% disability. The Tribunal has correctly assessed the income of the injured, adopted the correct multiplier and arrived at Rs.2,01,600/- towards loss of income due to 35% disability. The Tribunal has also awarded a sum of Rs.2,000/- towards extra nourishment and Rs.10,000/- towards pain and suffering. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above

heads and hence the same need not be interfered with by this Court.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10.The appellant Transport Corporation is directed to deposit the compensation with interest, awarded by the Tribunal, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. The respondent / claimant would have attained majority, by now. Hence, on such deposit being made, the respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

KM

To

1.The Motor Accidents Claims Tribunal/
Additional District Judge,
Fast Track Court No.IV,
Coimbatore at Tiruppur.

2.The Section Officer,
VR Section, Madras High Court.

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MR (CO)
GMY (12/06/2020)

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