

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3443 of 2011
and M.P.No.1 of 2011

The Managing Director
Tamil Nadu State Transport
Corporation Limited
(Division-2)
Bharathipuram
Dharmapuri

.. Appellant/Respondent

Vs.

Minor M.Vijayakumar
Rep. by Next friend mother
Vijaya Gandhi

.. Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 12.08.2009 made in M.C.O.P.No.940 of 2007 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Krishnagiri.

For Appellant : Mr.S.V.Vasanthakumar

J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal, the appellant Transport Corporation has preferred this appeal.

2.The case in brief is as follows:

On 23.08.2006 at about 05.00 p.m., the minor respondent was standing on Thenkanikottai Bus stand. At that time, the appellant transport corporation bus bearing Registration No.TN-29-N-1230 Route No.36, came to the said bus stand. The driver of the bus, while trying to stop the bus, took it in reverse rashly and negligently, in the course of which, the bus hit the respondent. As a result of the same, the respondent sustained grievous injuries. Stating so, he filed a claim petition claiming a sum of Rs.5,00,000/- as compensation. The Tribunal based on the witnesses and documents adduced by the parties, has

awarded a total compensation of Rs.3,04,400/- with interest at 7.5%pa from the date of petition. Aggrieved over the same, the appellant Transport Corporation has come out with this appeal.

3.The learned counsel for the appellant/Transport Corporation has disputed only the quantum of compensation awarded by the Tribunal, contending that the same is excessive and exorbitant and hence, it has to be reduced substantially.

4.Heard the learned counsel for the appellant and perused the materials available on record.

5.Though the appeal was admitted way back in the year 2011, the appellant has not taken proper steps to serve the papers on the respondent. However, this appeal is taken up for final disposal on merits, due to paucity of time.

6.Since the learned counsel for the appellant Transport Corporation has disputed only the quantum of compensation awarded by the Tribunal, the finding of the Tribunal that the accident had occurred only due to the rash and negligent act on the part of the driver of the bus, need not be interfered by this Court.

7.As regards the quantum of compensation, the Tribunal has determined the total compensation at Rs.3,04,400/- under the following heads:

Permanent disability (25%)-	Rs.50,000/-
Injuries	- Rs.25,000/-
Pain and suffering	- Rs.10,000/-
Mental agony	- Rs. 5,000/-
Attendar charges	- Rs. 6,000/-
Extra nourishment	- Rs. 2,000/-
Transport expenses	- Rs. 7,500/-
Medical expenses	- Rs.1,98,900/-

The mother of the minor claimant was examined as P.W.1, according to whom, her son/respondent was 11 years old and was studying 6th standard in John Pritto Higher Secondary School, Denkanikottai and he was very active and participating in sports and brilliant in studies; in the accident, the wheel of the bus ran over his right leg and he sustained grievous injuries. The nature of the injuries and the impact of the same to the respondent were narrated in detail by P.W.2/doctor who issued Ex.P5 disability certificate (25%). Ex.P2 is wound certificate and Ex.P4 is medical bill series to the tune of Rs.1,98,967/-. The Tribunal, based on the oral and documentary evidence adduced by the respondent/claimant and also considering the fact that the respondent was 11 years student, has quantified the

aforesaid sum as compensation, which, in the opinion of this Court, are fair, just and reasonable and cannot be treated as excessive and exorbitant at any stretch of imagination and hence, the same warrant no interference.

8. In the result, affirming the award of the Claims Tribunal, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed. The appellant/Transport Corporation is directed to deposit the entire award amount along with interest and costs, after deducting the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. It is now reported that the minor respondent should have attained majority as of now and hence, on filing proper application, the Tribunal shall transfer the amount lying in the deposit to his bank account through RTGS.

Sd/-
Asst.Registrar (CS V)

/true copy/
Sub Asst. Registrar

nvsri

To

1. The Motor Accident Claims Tribunal,
Chief Judicial Magistrate, Krishnagiri.

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

C.M.A.No.3443 of 2011

pp(co)
aa10/03/2020