

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.02.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2650 of 2012

Minor M. Sadeeshkumar
Rep. by his father and
Next Friend T. Masila ...Appellant/Petitioner

Vs

Metropolitan Transport Corporation
Limited, Rep by its Managing Director,
Chennai 600 002. Respondents/Respondent

PRAYER: This Civil Miscellaneous Appeal filed against the Judgment and Decree dated 19.07.2010 made in MCOP No.4086 of 2005 on the file of Motor Accident Claims Tribunal, V Judge, Small Causes Court at Chennai.

For appellant : Mr.T.G. Balachandran
For Respondent : Mr.S. Sivakumar

J U D G M E N T

This appeal has been filed by the appellant seeking enhancement of the compensation awarded in MCOP No.4086 of 2005 on the file of Motor Accident Claims Tribunal, V Judge, Small Causes Court at Chennai.

2.It is the case of the appellant that on 15.08.2005 at about 10.15 hours, while the appellant was boarding the respondent Bus bearing Registration No. TN 01 N 2253 through the rear entrance at Rosary Church Road Bus stop and the driver of the bus started the bus, as a result which the appellant fell down from the bus and sustained injuries. The accident occurred only due to the negligence on the part of the driver of the bus.

Hence, the appellant/claimant filed a claim petition, before the Tribunal seeking Rs.6,00,000/- as compensation.

3.The Tribunal Considering the materials available on record awarded a sum of Rs.1,21,000/- as compensation with interest at 7.5% p.a from the date of petition till the date of realization.

4.Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant has come forward with this appeal before this Court.

5.In order to prove the claim before the Tribunal, on the side of the appellant two witnesses were examined viz., P.W.1 and P.W.2 and 10 documents viz., Ex.P1 to Ex.P10 were marked. On the side of the respondent one witnesses was examined and no documents were adduced.

6.The learned counsel for the appellant submitted that the appellant is minor boy studying 7th standard in Santhome Higher Secondary School and due to the accident he sustained crush injury over the dorsum of left foot and multiple injuries all over the body. He would further contend that the injured is a school going student and he was unable to continue his studies further. In any event the award passed by the Tribunal is very low, when compared to the injuries sustained in the accident. Therefore, he prays for enhancement of compensation.

7.Per Contra the learned counsel for the respondent/Transport corporation contended that the nature of injuries sustained by the appellant is very simple and he is continuing his studies. The learned counsel for the respondent denied the manner of the accident and also states that the averments in the claim petition are baseless. In any event the award passed by the Tribunal is very excessive.

8. On a perusal of the order passed the Tribunal, the negligence aspect was discussed elaborately. P.W.1/Appellant was examined and he has clearly attributed that the rash and negligence act of the driver of the bus is the cause for the accident. On the side of the respondent RW1 who was the conductor of the bus at the time of accident has been examined but, the driver of the offending vehicle has not stepped into the witness box to speak about the negligence of the appellant. The evidence of P.W.1 coupled with Ex.P.1/FIR and the non examination of the driver of the offending vehicle by the respondent, the Tribunal held that the driver of the offending vehicle was the cause for the accident. Hence, the finding of

the Tribunal does not require interference by this Court and the same is confirmed as such.

9. With regard to quantum, on the basis of Exs.P.5 to 7/Medical bills the Tribunal has awarded Rs.23,500/-, Rs.3,000/- and Rs.10,000/-towards Medical Expenses, Extra Nourishment and pain and suffering respectively. Considering Exs.P.2 to P.4 the Tribunal has awarded Rs.2,000/- each towards attender charges and transportation.

Apart from this Rs.500/- was awarded towards damage to clothes. P.W.2/Dr.M. Saravanabavanandam examined the appellant and assessed the disability at 40% and the same is taken and considering the year of accident Rs.2,000/- per percentage is determined and quantified Rs.80,000/- as compensation for disablement. Thus, the total compensation is quantified to Rs.1,21,000/-

10.In view of the above this Court while re-appreciating the evidence observed, that the claimant is a minor boy studying 7th standard in Santhome Higher Secondary School and due to the accident he sustained crush injury over the dorsum of left foot and multiple injuries all over the body. Hence, the amount awarded under the head pain and sufferings seems to be very meager. Hence the same is enhanced to Rs.15,000/- from Rs.10,000/-. The amount awarded under the head damage to clothes is enhanced to Rs.1,000/- from Rs.500/-. Thus, apart the Tribunal has not awarded any amount towards loss of amenities hence Rs.13,500/- is awarded towards the same. The amount awarded under other heads viz., Disability, Medical Bills, Extra Nourishment, Attender charges and Transportation seems to be very reasonable and the same is confirmed as such. Thus, the award passed by this Court is as follows:

S.No.	Amount awarded by the Tribunal	Amount awarded by this Court
Disability	Rs.80,000/-	Rs.80,000/-
Compensation for his pain and suffering	Rs.10,000/-	Rs.15,000/-
Towards Medical bills	Rs.23,500/-	Rs.23,500/-
Extra nourishment	Rs.3,000/-	Rs.3,000/-
Damage to clothes	Rs.500/-	Rs.1,000/-

S.No.	Amount awarded by the Tribunal	Amount awarded by this Court
Attender Charges	Rs.2,000/-	Rs.2,000/-
Transportation	Rs.2,000/-	Rs.2,000/-
Loss of earning	-Nil-	Rs.13,500/-
Total	Rs.1,21,000/-	Rs.1,40,000/-

11. With the above said modification the award amount is enhanced to Rs.1,40,000/- from Rs.1,21,000/-.

12. In the result, this Civil Miscellaneous Appeal is partly allowed. The Respondent/Transport Corporation is directed to deposit the amount awarded by this Court along with 7.5% interest p.a from the date of petition till the date of realization, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made the appellant being a minor, the award amount shall be deposited in any one of the Nationalised Bank in fixed deposit till he attains majority and the guardian of the minor appellant is entitled to withdraw the accrued interest once in six months. No Costs.

Sd/-
Assistant Registrar

/true copy/

Sub Asst. Registrar

smn

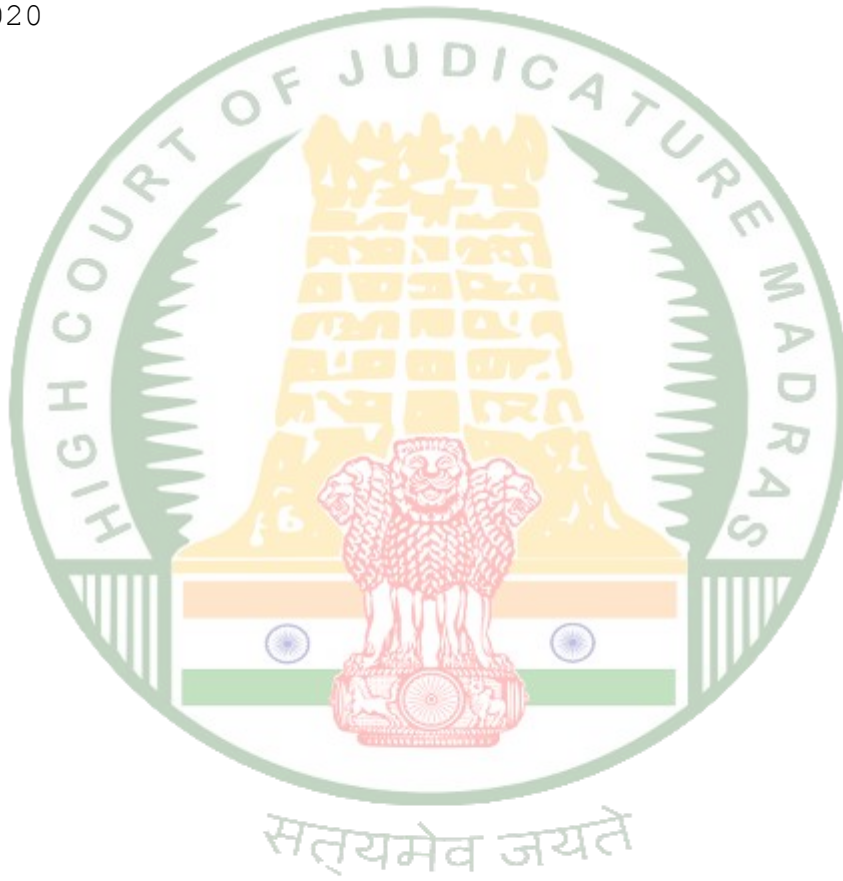
To
The Motor Accidents Claims Tribunal,
V Judge, Small Causes Court at Chennai.

Copy to
The Section Officer
VR Section
High Court Madras

+1 cc to Mr.T.G.Balachandran Advocate sr11758
+1 cc to Mr.S.Sivakumar Advocate sr12553

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