

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.01.2020

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2702 of 2013
and M.P.No.1 of 2013

The District Collector,
Tiruvallur District,
Tiruvallur.

... Appellant/Respondent

Vs.

Minor R.L.Harishbabu
Rep. by his next friend and natural Guardian
His father Lakshmanan,
K.G.Kandigai Village and Post,
Thiruvallur District.

...Respondent/Claimant

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the fair and decreetal order passed in MCOP. No.91 of 2010, dated 30.09.2011 passed by the Motor Accidents Claims Tribunal, Subordinate Judge, Tiruttani.

For Appellant : Mr.S.Jaganathan
Government Advocate (C.S.)

For Respondent : Mr.S.Udhayakumar

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the fair and decreetal order passed in MCOP. No.91 of 2010, dated 30.09.2011 passed by the Motor Accidents Claims Tribunal, Subordinate Judge, Tiruttani for dismissal of the petition.

2. It is the case of the appellant that on 10.01.2009 at about 04.15 P.M., while the respondent herein/injured minor was walking on the left side of the road on Chittoor-Tiruttani Road, at the time, a jeep bearing registration No.TN 20 G 0364 belonging to the appellant, came from the same direction, in a rash and negligent manner, dashed against the minor boy. In the result, he had sustained injuries all over the body. Hence, the claimant has filed a Claim Petition before the Motor Accidents Claims Tribunal/Subordinate Court, Tiruttani, against respondent, claiming a sum of Rs.5,00,000/- as compensation under various heads.

3. During the trial before the Tribunal, in order to prove his case, the claimant was examined as many as three witnesses viz., P.W.1 to P.W.3 and marked as many as eleven documents viz., Ex.P1 to Ex.P11. On the side of the respondent, two witnesses were examined viz., R.W.1 and R.W.2 and no documentary evidence was adduced.

4. The Tribunal, after hearing the arguments of both sides and considering the oral and documentary evidences, awarded a sum of Rs.2,77,000/- to the claimant as compensation. Aggrieved by the said award dated 30.09.2011 passed by the Tribunal, the appellant/respondent therein has filed this appeal before this Court.

5. The learned counsel for the appellant would submit that the accident had occurred only due to the fault of the minor boy or on the part of the school authorities, not regularize the traffic, at the time of closing hours of the school. Due to the accident, the boy sustained injuries, which are simple in nature. The disability certificate issued by the Doctor, who was not a competent person and that therefore, the same is not valid. Hence, the appellant herein is not liable to pay any compensation to the claimant. The Tribunal has failed to consider all these facts, awarded a sum of Rs.2,77,000/- to the claimant as compensation is unfair, which warrants interference of this Court.

6. The learned counsel for the respondent/claimant supported the award and prayed this Court to confirm the award and dismiss this appeal.

7. Heard the learned Government Advocate appearing on behalf of the appellant/Government and the learned counsel for the respondent/claimant and also perused the materials available on record.

8. On a perusal of the records, it is seen that on 10.01.2009 at about 04.15 p.m., the minor boy was walking on the left side of the road, on Chittoor to Tiruttani Road, and the driver of the Jeep bearing Registration No.TN 20 G 0364 towards Tiruttani, hit the minor boy. Due to the accident, the minor boy sustained head injury, fracture on his left leg. Therefore, the respondent/claimant has claimed a sum of Rs.5,00,000/- before the Tribunal.

9. Before the Tribunal, on the side of the appellant, the Tribunal has examined three witnesses and marked 12 documents. On the side of the respondent, the Tribunal has examined two witnesses and there is no documentary evidence. After hearing the both sides and perusal of the doctors report as well as the

medical documents, the Tribunal has awarded a sum of Rs.2,77,000/-. Based on Exs.P11, the Tribunal has awarded a sum of Rs.1,20,000/- towards disability, Rs.20,000/- towards compensation of pain and sufferings, Rs.30,000/- towards future medical expenses, Rs.82,000/- towards medical expenses, Rs.20,000/- towards transportation to hospital and Rs.5000/- for extra nourishment, thus awarded a total compensation of Rs.2,77,000/-.

10. It is seen that the Tribunal has awarded a sum of Rs.1,20,000/- towards 65% permanent disability at the rate of Rs.2,000/- per percentage of disability. On a perusal of the materials and evidence available on record, this Court finds that the appellant was in-patient from 10.01.2009 to 17.01.2009. Due to the accident, the minor boy had fracture on lower 1/3rd of the Tibia associated with degloving injury of foot with extensor tendon and skin loss, lacerated injury on the right fore head. Due to which, he cannot walk normally. Considering the injuries sustained by the minor boy, this Court deems it fit to enhance the amount awarded by the Tribunal towards pain and sufferings to Rs.30,000/- and also ordered to pay a sum of Rs.5,000/- towards attendance charges. Regarding the other heads viz., extra nourishment, transportation, pain and sufferings and loss of amenities, respectively, are reasonable and there is no need to interfere with it.

11. The award amount of compensation of Rs.2,77,000/- is enhanced to Rs.2,92,000/- under the following heads :-

Sl.No	Heads	Amount awarded by the Trial Court (Rs.)	Amount awarded by this Court (Rs.)
1	Disability	1,20,000/-	1,20,000/-
2	Pain and Sufferings	20,000/-	30,000/-
3	Future medical expenses	30,000/-	30,000/-
4	Medical expenses	82,000/-	82,000/-
5	Transportation	20,000/-	20,000/-
6	Extra nourishment	5,000/-	5,000/-
7	Attender's charges	-	5,000/-
	Total	2,77,000/-	2,92,000/-

12.The appellant is directed to deposit the modified compensation of Rs.2,92,000/- with interest at 12% p.a. from the date of petition, after deducting the amount if any already

deposited, within a period of three weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent/claimant is permitted to withdraw the award amount, less the amount if any, already withdrawn, by filing necessary applications before the Tribunal.

13. With the above observations, the Civil Miscellaneous Appeal is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
Subordinate Judge,
Tiruttani.

Copy to : The Section Officer, V.R.Section,
High Court of Madras, Chennai.

+1cc to Mr.S.Udayakumar, Advocate SR.NO..768

AKM/19.04.21/4P-4C/

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