

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2020

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.4048 of 2019

S.Nandha Kumar (Minor)
Rep. by father and next friend
Mr.Sathishkumar

..Appellant/Petitioners

vs.

The Managing Director
Metropolitan Transport Corporation
(Chennai Division-I) Ltd.,
Pallavan House, Anna Salai
Chennai-600 002.

..Respondent/Respondent

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 12.03.2019 passed in MCOP.No.5537 of 2015 on the file of the Motor Accident Claims Tribunal (Principal Special Judge), Special Court, Chennai.

For Appellant : Mr.K.Varadha Kamaraj
For Respondent: Mr.Prithivi Raj
For Mr.K.Moorthy

J U D G M E N T

The appeal is filed challenging the judgment and decree dated 12.03.2019 passed in M.C.O.P.No.5537 of 2015 on the file of the Motor Accident Claims Tribunal/(Principal Special Judge), Special Court, Chennai.

2. The accident occurred on 05.06.2015 at 19.25 hours, at Periyar EVR Salari, near Panchalai Amman Koil Bus Stop, Arumbakkam, Chennai. The Anna Nagar Police Station, Traffic Investigation registered a case in Crime No.201/AS2/2015. The claimant, who is a minor was standing at Panchalai Amman Koil Bus stop to go to Aminjikarai. At that time, the MTC Corporation bus bearing Registration No.TN-01-N-4142 dashed against the minor boy and the minor boy sustained grievous injuries. Thereafter, the claim petition has been filed. The Tribunal adjudicated the issues with reference to the documents and

evidences. The Tribunal made a clear finding that the accident occurred only due to the rash and negligent driving of the driver of the Metropolitan Transportation Corporation bus. Accordingly, the respondent is made liable to pay a compensation to the appellant/claimant.

3. As far as the quantum of compensation is concerned, the learned counsel appearing on behalf of the appellant mainly contended that the compensation awarded by the Tribunal is inadequate and on the lesser side. Minor boy suffered grievous injuries and therefore, the Tribunal ought to have granted more compensation under various heads including the permanent disability. The doctor has assessed the disability at 35%, but the Tribunal has fixed the disability at 30%.

4. The learned counsel appearing on behalf of the respondent/ Transport Corporation disputed the contention by stating that the Tribunal has granted reasonable compensation under various heads and no enhancement needs to be granted. It is a case of injury and the appellant/claimant is a minor boy. Thus, the income cannot be fixed and therefore, the Tribunal is right in granting the compensation under various heads. Accordingly, the appeal is liable to be dismissed.

5. The appellant/claimant sustained fracture in the right thigh and left foot, dislocation, deep crush injuries, lacerations and abrasions all over the body. Considering the grievousness of the injuries sustained by the appellant/claimant, the Tribunal has granted the compensation. This Court is of the opinion that the only enhancement which can be made in this case is that the disability compensation. The Tribunal has fixed a sum of Rs.3,000/- for 1% of disability. The accident occurred in the year 2015. Thus, a compensation of Rs.4,000/- for 1% of disability would be appropriate. With reference to the compensation under various other heads, no interference is required. Accordingly, the disability compensation of Rs.90,000/- is enhanced to Rs.1,20,000/-. The compensation granted under other heads stands confirmed. Thus, the total compensation is enhanced to Rs.2,20,000/-.

6. Accordingly, the appellant/claimant is entitled for the total compensation of Rs.2,20,000/- along with interest at the rate of 7.5% per annum. The respondent/ Transport Corporation is directed to deposit the modified award amount with accrued interest within a period of twelve weeks from the date of receipt of a copy of this judgement and on such deposit, the entire amount is to be deposited in any one of the Nationalised Bank in the interest bearing deposit scheme and the said deposit is to be renewed periodically till the minor appellant attains the age of majority. The appellant/claimant is directed to pay

the additional court fee for the enhanced compensation within a period of two weeks from the date of receipt of a copy of this judgment.

7. In the result, the judgment and decree dated 12.03.2019, passed in MCOP No.5537 of 2015 stands modified and this Civil Miscellaneous Appeal stands allowed in part. No costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

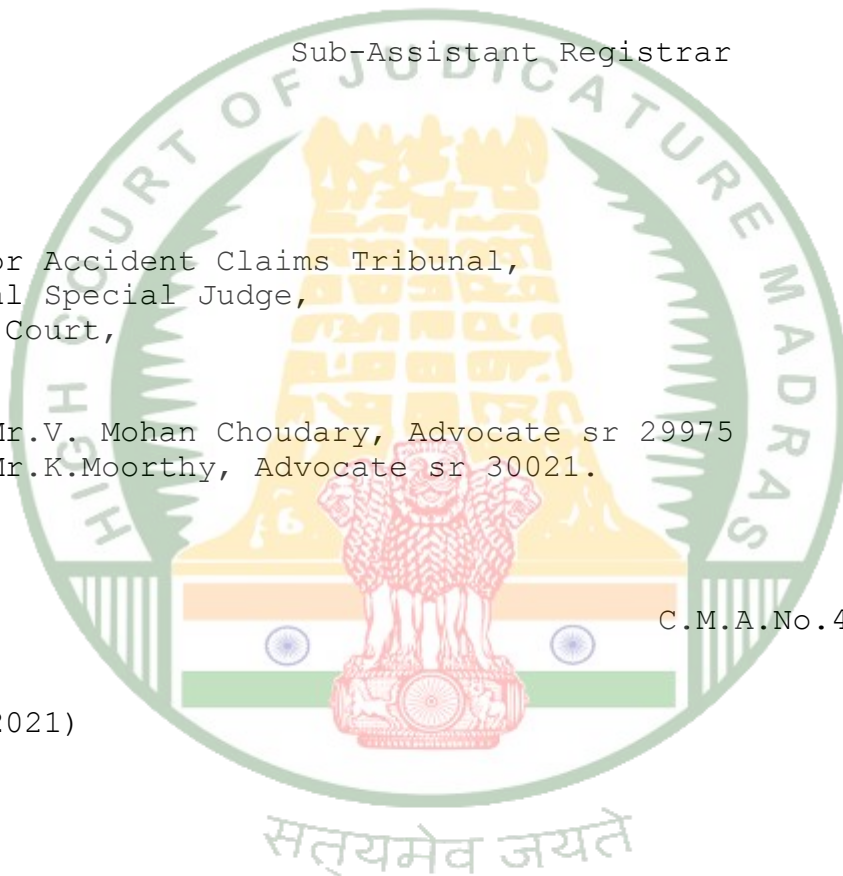
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To

1.The Motor Accident Claims Tribunal,
Principal Special Judge,
Special Court,
Chennai.

+1 CC to Mr.V. Mohan Choudary, Advocate sr 29975
+1 CC to Mr.K.Moorthy, Advocate sr 30021.

C.M.A.No.4048 of 2019

SJ(CO)
SP(23/04/2021)



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