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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

CMA. NO.2386 OF 2013

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Villupuram. ...Appellant/Respondent

..vs..

1. Minor K.Annapoorani rep. by
Next Friend & mother Muniammal
2. V.C.Shanmugam
3. The New India Assurance Co. Ltd.,
Dharmapuri. ...Respondents/Petitioners

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 19.10.2012 made in M.C.O.P.No.373 of 2010 on the file of Principle Subordinate Judge (Motor Accidents Claims Tribunal), Krishnagiri.

For Appellant : Mr.C.S.K.Sathish

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation against the judgment and decree dated 19.10.2012 in M.C.O.P.No. 373 of 2010 on the file of the Principle Subordinate Judge (Motor Accidents Claims Tribunal), Krishnagiri.

2.The appellant is the 1st respondent before the tribunal . The 1st respondent has filed the said claim petition, claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by her in the road accident that took place on 28.11.2008.

3. It is the case of the claimant that on 28.11.2008 at about 10.20 a.m, the claimant/minor K.Annapoorani boarded the



bus bearing no. TN-63-L-6667, driven by its driver, belonging to the 2nd respondent therein and insured with the 3rd respondent therein from Uthangarai to Mathur. When the bus was proceeding on the Mathur to Thiruvannamalai N.H.Road towards Mathur near Kamalapuram Koot Road, the Bus bearing Reg.No.TN-25-N-0043 belonging to the Appellant/Transport corporation came from the opposite direction from Krishnagiri towards Thiruvannamalai. Both the Bus driven by its driver in a rash and negligent manner dashed against each other. Due to the accident, the minor K.Annapoorani has sustained grievous injuries and she filed petition before the tribunal, claiming compensation of Rs.20,00,000/-.

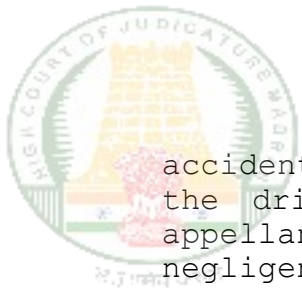
4.Before the Tribunal, witnesses P.W.1 to P.W.3 were examined and Exhibits A1 to A12 were marked on the side of the claimant whereas on the side of the respondents, R.W.1 was examined and no documents were marked. The tribunal, after analyzing both oral and documentary evidences, has held that the 1st Respondent/Transport corporation being the owner of the offending vehicle is liable to pay compensation to the claimant and awarded Rs.3,13,180/- as compensation along with interest at the rate of 6% p.a from the date of petition till realization. The total compensation awarded by the tribunal under various heads are as follows:

Heads	Amount
Disability (70%)	1,40,000/-
Pain & Suffering and Mental agony	1,00,000/-
Transportation	15,000/-
Nutrition	10,000/-
Attender Charge	20,000/-
Medical Bill	3,180/-
Future Treatment	25,000/-
Total	3,13,180/-

5. Being aggrieved by the said compensation and the negligence fixed on the part of driver of the appellant/transport corporation bus, the present appeal is filed.

6. Heard the learned counsel appearing for the appellant/Transport corporation and perused the materials available on record.

7. The learned counsel for the appellant /transport corporation submitted that the claimant who was travelling as passenger in a private bus came in wrong direction and hit against the right side of the appellant bus and caused the



accident. Therefore, the entire negligence is on the part of the driver of the private bus. The learned counsel for the appellant submitted that the tribunal failed to fix contributory negligence between both the drivers of the buses. Further the compensation awarded at Rs.1,40,000/- for 70% disability is excessive. The compensation awarded under other heads also without any basis. Hence, prayed to set aside the award passed by the tribunal.

8. It is seen from the records, before the tribunal, both the Minor Annapoorani/1st respondent herein and P.Govindaraj have filed separate claim petitions in MCMP.Nos. 373 of 2010 and MCOP.No.175 of 2010 respectively. The tribunal by common order, awarded a sum of Rs.3,13,180/- to Minor Annapporani/1st respondent herein and a sum of Rs.15,000/- to P.Govindaraj. Though the said claim petitions filed arising out of the same accident, the appellant/Transport Corporation has preferred appeal only as against the award passed in MCOP.No. 373 of 2010 challenging the liability and quantum.

9. The mother of claimant Annapoorani was examined as PW1 and FIR registered in Crime No.731/2008 before Mathur Police was marked as Ex.A1 against the driver of the appellant /transport corporation bus bearing Reg.No. TN25-N-0043. The driver of the appellant transport corporation bus K.Shankar was examined as RW1, he deposed that he drove the vehicle slowly abiding road rules and it is the 2nd respondent's bus TN63-L-6667 driver who drove it in a rash and negligent manner and hit against the appellant/transport corporation bus. Though the driver of the appellant transport corporation bus denied the negligence, due to the said accident, he was suspended for one month. If he was not at fault, after enquiry, charge sheet would have not been filed against him and the departmental enquiry would not have been initiated against him. The tribunal by observing the above facts, has concluded that due to the rash and negligent driving of the driver of the appellant/transport corporation bus and directed the appellant transport corporation to pay the compensation. The said findings of the tribunal in fixing negligence and liability on the part of the appellant/transport corporation is valid and proper and does not require any interference by this Court.

10. Insofar as quantum of compensation is concerned, to substantiate the injuries and treatment, the claimant/1st respondent herein has marked Ex.A1/wound certificate, Ex.A3/Treatment Certificate issued by the General Hospital, Chennai and Ex.A4/Discharge Summary and Ex.A11/Disability Certificate. PW3/Dr.Gandhi assessed the disability at 70%, he has stated that the claimant minor Annapoorani's right leg was amputated below 5 1/2 inches from the hip region completely, plate and screws are



fixed in right fore arm, artificial right leg was fixed, she could walk only with the help of crutches and could not stand for a long time. The tribunal by considering the age of the claimant/1st respondent who was 13 years at the time of the accident, has fixed Rs.2000/- per percentage and awarded a sum of Rs.1,40,000/- towards 70% disability. This Court finds no error in awarding the said compensation and the same is confirmed. Since the age and injuries are very much proved by the claimant by way of evidence and documents, this Court is of the opinion that the sum of awarded by the tribunal under various heads are proper and reasonable does not require any modification by this Court. Accordingly, the total compensation awarded by the tribunal at Rs.3,13,180/- along with interest is confirmed by this Court.

11. The appellant/Transport corporation shall deposit the entire compensation amount along with interest as awarded by the tribunal, 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, the 1st respondent /claimant is permitted to withdraw the compensation, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal.

12. In the result, this Civil Miscellaneous Appeal is dismissed to the aforesaid extent. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Principle Subordinate Judge
(Motor Accidents Claims Tribunal),
Krishnagiri.
2. The Section Officer,
V.R.Section, Madras High Court,
Chennai-104.

CMA.No.2386 of 2013

PVS (CO)
RGA(13/09/2021)