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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

CMA.NO.3810 OF 2019

AND

CMP.NO.21884 OF 2019

The Managing Director,
Tamil Nadu State Transport Corporation,
Railway Station Road, Kumbakonam.

... Appellant/Respondent

Vs.

Minor Gautham Antony Raj @ Gautham
S/o Kuzhandhai Raj @ Annadurai,
Poondi Road, Erayur, Ulundhurpettai Taluk,
rep. by his Guardian, Father
Kuzhandhai Raj @ Annadurai

... Respondent/Petitioner

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 12.10.2018 passed in MCOP No.232 of 2018 by the Special Sub Judge-II, Motor Accident Claims Tribunal, Villupuram.

For Appellant : Mr.D.Venkatachalam

For Respondent : No appearance.

J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal, the Tamil Nadu State Transport Corporation, Kumbakonam has filed the present Appeal.

2. The claimant/ respondent, who was a minor at the time of filing the claim petition, approached the Tribunal represented by his father, seeking a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in a road accident that occurred on 03.10.2014.

3. Brief case of the claimant/ Respondent is as follows:
On 03.10.2014 at 4.30 p.m., when the claimant was walking at the



extreme left side of Velangani Main Road, and while nearing Joseph Lodge, a Bus bearing registration No.TN49-N-1750 dashed against him, due to which he sustained grievous injuries. Immediately he was taken to Thiruvarur Medical College Hospital for first aid and then, he was admitted at Vinodhagan Memorial Private Hospital on 04.10.2014, where, he was treated as an inpatient till 15.10.2014. According to the claimant, the rash and negligent driving of the driver of the bus was the cause of accident. Since the Appellant Transport Corporation is the owner of the vehicle, they are liable to pay compensation to the claimant.

4. The Transport Corporation resisted the claim petition by filing a counter affidavit stating that, without seeing the bus on the opposite side, the claimant fell down near the back wheel of the bus and only due to his negligence, the accident had occurred and hence, the Transport Corporation is not liable to pay compensation to him.

5. Before the Tribunal, on the side of the claimant, the father of the claimant was examined as PW1 and Exs.P1 to P12 were marked. On the side of the Transport Corporation, one witness was examined as RW1 and no documentary evidence was marked. The Wound Certificate issued by the Government Doctor was marked as Ex.C1.

6. After analysing the evidence on record, the Tribunal has awarded a sum of Rs.2,56,000/- as compensation with interest at the rate of 7.5% per annum to the claimant under various heads, as detailed below:

Sl No	Heads	Amount in Rs.
1	Pain and suffering, Mental and physical shock, Loss of amenities in life	1,00,000/-
2	Loss of earning to parents during the period of hospitalization and incidental expenses	13,000/-
3	Medical expenses	1,17,857/-
4	Extra Nourishment	5,000/-
5	Transportation charges	20,000/-
	Total	2,55,857/-
	Rounded off	2,56,000/-

7. Heard the learned counsel for the appellant and perused the material documents available on record.



8. The learned counsel for the appellant/ Tamil Nadu State Transport Corporation submitted that the claimant had sustained only simple injuries, however, the Tribunal had awarded a sum of Rs.1,00,000/- towards Pain and suffering, and a sum of Rs.17,857/- towards 'Medical expenses' which are on the higher side. According to him, without any Medical Bills and supporting evidence, the Tribunal has awarded huge amount as compensation and hence, the same may be reduced.

9. The Tribunal, after elaborate discussion, has come to the conclusion that the negligent driving of the driver of the Bus was the cause of accident and has fixed the liability on the Transport Corporation to pay compensation to the claimant. Admittedly, the claimant was a minor at the time of accident and was studying 5th standard, and he sustained injuries on his left knee and skin grafting was done on his both knees. According to the claimant, there was no proper growth in the place, where surgery was done. Even though, the claimant was continuing his studies, without any disruption, he suffered permanent disability, due to the accident and Ex.C1-Disability Certificate, issued by the Government Doctor, was placed before the Tribunal, wherein, the permanent disability suffered by the claimant was assessed at 3%. Considering the above fact and taking into account the nature of injuries sustained by the claimant and the fact that there was no proper growth in the place where surgery was done, the Tribunal has awarded a sum of Rs.1,00,000/-, as compensation, under the heads, namely, " Pain and Sufferings, Mental and Physical Shock, Hardship and Inconvenience etc. and Loss of Amenities". The above compensation awarded by the Tribunal is very nominal.

10. Further, considering the period of treatment undergone by the claimant as inpatient, and also taking into account the Medical records and Bills produced by the claimant, the Tribunal has awarded a sum of Rs.13,000/- towards " Loss of Earning to the parents during the period of hospitalization; Rs.1,17,857/- towards "Medical Expenses"; Rs.5,000/- towards "Extra Nourishment"; and Rs.20,000/- towards "Transportation charges". which are also nominal. Therefore, this court is of the view that the compensation awarded by the Tribunal under various heads is just and reasonable. Hence, this court does not find any fault in it.

11. In the result,

(i) The award passed by the Tribunal is upheld. The Civil Miscellaneous Appeal is dismissed. No costs. The award passed



by the Tribunal is upheld. The connected civil miscellaneous petition is closed. No costs.

(ii) The appellant/Tamil Nadu State Transport Corporation Limited is directed to deposit the amount awarded by the Tribunal with interest at the rate of 7.5.% p.a. from the date of claim petition till the date of deposit, less the amount if any, already deposited, within a period of three months from the date of receipt of a copy of this order.

(iii) As the claimant is a minor, the compensation amount is directed to be invested in any one of the Nationalised Banks under a Fixed Deposit Scheme for a period of six months, which shall be renewed periodically until he attains majority and his father being the Natural Guardian of the minor, is permitted to withdraw the interest accrued thereon in the said Fixed Deposit Account and the same shall be used for the purpose of education and welfare of the minor claimant.

Sd/-

Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Special Sub Judge-II,
Motor Accident Claims Tribunal, Villupuram.

Copy To

The Section Officer,
VR Records, High Court, Madras-104.

+lcc to Mr.D.Venkatachalam, Advocate, S.R.No.42932

CMA.No.3810 of 2019 and
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NK(CO)
CS/25/11/2021