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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2021

CORAM:

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

C.M.A.No.498 of 2010

and

M.P.No.1 of 2010

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division - 1, No.12, Ramakrishna Road,
Salem - 636 007.

... Appellant/Respondent

..VS..

Minor Ammu
[Minor represented by her father/
Guardian Elumalai]

... Respondent/Petitioner

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award made in MCOP.No.346 of 2005 dated 10.08.2009 on the file of the Motor Vehicles Accident Claims Tribunal and Chief Judicial Magistrate, Cuddalore.

For Appellant : Mr.K.J.Sivakumar

For Respondent : No appearance

J U D G M E N T

This Civil Miscellaneous Appeal is filed to set aside the award made in MCOP.No.346 of 2005 dated 10.08.2009 on the file of the Motor Vehicles Accident Claims Tribunal and Chief Judicial Magistrate, Cuddalore.

2. On 27.03.2005 at about 17.30 hours when the minor respondent/ claimant was waiting for the bus along with her parents and others on the side of the Madapattu cross road, the appellant's TNSCTC bus bearing registration No.TN-27-N1445 came from Villupuram to Ulundurpet at a great speed in a rash and



negligent manner without blowing horn and hit the minor respondent/ claimant and caused the accident. Immediately the minor respondent/ claimant was admitted in G.H. Panruti and then shifted to Government Head quarters Hospital, Cuddalore for further treatment. For the injuries sustained by the claimant, she has filed the claim petition before the Tribunal in MCOP.No.346 of 2005 for a compensation amount of Rs.5,00,000/-.

3. Before the Tribunal, two witnesses were examined on the side of the respondent/ claimant and Ex.P1 to Ex.P6 were marked. On the side of the respondent/ appellant driver of the bus was examined as a witness and no exhibits were marked. After considering the oral and documentary evidence, the Tribunal has awarded a total compensation of Rs.1,20,000/- for the grievous injuries sustained by the respondent/ claimant. Against the award passed by the the Tribunal, the Transport Corporation had filed the present appeal before this court.

4. The learned counsel appearing for the appellant would deny 40% of disability of the claimant and further has challenged the appeal for awarding amounts under the heads of loss of amenities, mental agony and for future medical expenses. Therefore, the award of the Tribunal is liable to be set aside.

5. Heard the counsel for the appellant. Though notice served to the respondent, none appeared for the respondent.

6. There is no dispute regarding the liability of the appellant to pay compensation. Only question involved in the present appeal is quantum of compensation awarded by the Tribunal. According to the appellant Transport Corporation, 40% of the disability has not been proved before the Tribunal with necessary materials. On the contrary the respondent/ claimant has marked Ex.P5 Disability certificate and one Dr.V.Ramalingam was examined as PW2 who had deposed before the Tribunal in support of Ex.P5 and has assessed the disability of the respondent/ claimant at 40%. Hence, the Tribunal had based on the evidence of PW2 as well as Ex.P5, fixed the award amount at Rs.40,000/- for 40% disability suffered by the minor respondent/ claimant.

7. As far as the other heads are concerned, the Tribunal has rightly fixed the compensation amount towards pain and suffering, extra nourishment, attendant charges, transport charges, loss of amenities and medical expenses and shock and mental agony.

8. In view of the fact that the Tribunal has fixed fair and just compensation for the respondent/ claimant there is no warrant to interfere with the award of the Tribunal. Accordingly, the appeal is liable to be dismissed.



9. In fine, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate, Cuddalore.
2. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division - 1, No.12, Ramakrishna Road,
Salem - 636 007.
3. The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.7122

CMA.No.498 of 2010

KV(CO)
RLP(08/09/2021)